



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: April 16, 2003***

### **MARCH 2003 FINANCE & INVESTMENT REPORT**

#### **RECOMMENDED ACTION:**

Accept and File Report

#### **EXECUTIVE SUMMARY:**

Attached is the monthly Finance and Investment Report for the period ended March 31, 2003. The report covers the first nine months of activity for the 2002/2003 fiscal year. A summary of the report is included on the first page for the City Council's benefit.

The monthly Finance and Investment Report is presented to the City Council and our Citizens as part of our ongoing commitment to improve and maintain public trust through communication of our finances, budget and investments. The report also serves to provide the information necessary to determine the adequacy/stability of financial projections and develop equitable resource/revenue allocation procedures.

This report covers all fiscal activity in the City, including the Redevelopment Agency. The Redevelopment Agency receives a separate report for the fiscal activity of the Agency at the meeting of the Agency. Presenting this report is consistent with the goal of *Maintaining and Enhancing the Financial Viability of the City*.

**FISCAL IMPACT:** as presented

**Agenda Item # 1**

**Prepared By:**

\_\_\_\_\_  
**Finance Director**

**Submitted By:**

\_\_\_\_\_  
**City Manager**



**CITY OF MORGAN HILL**  
**Monthly Financial and Investment Reports**  
**March 31, 2003 – 75% Year Complete**



**CITY OF MORGAN HILL**

**Prepared by:**  
**FINANCE DEPARTMENT**





CITY OF MORGAN HILL, CALIFORNIA  
FINANCIAL STATEMENT ANALYSIS - FISCAL YEAR 2002/03  
FOR THE MONTH OF MARCH 2003 - 75% OF YEAR COMPLETE

This analysis of the status of the City's financial situation reflects 75% of the year. However, certain of the City's current year revenues, such as franchise fees, have not been received as of this time of the year.

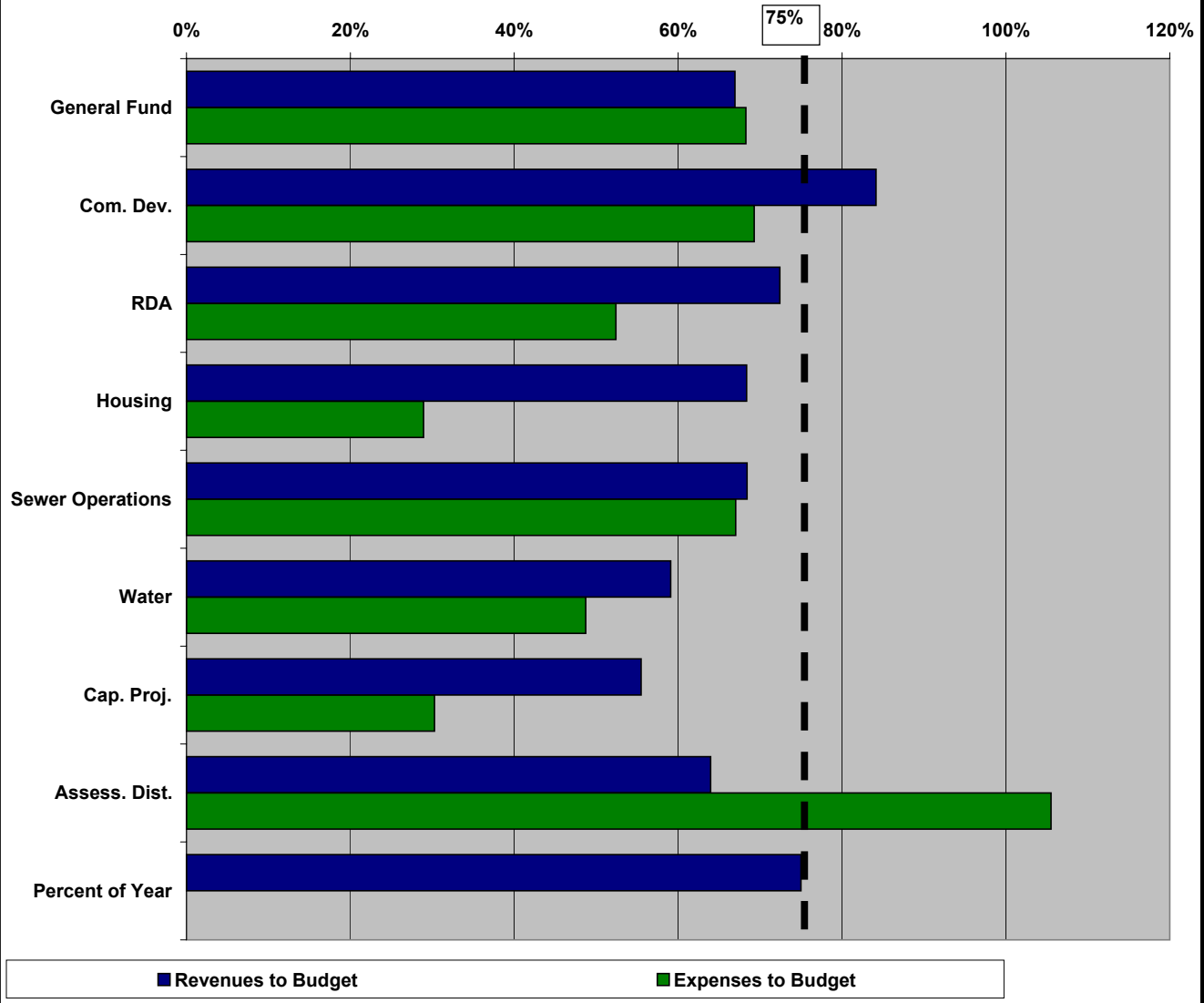
- \* **General Fund** - The revenues received in the General Fund were approximately 67% of the budgeted revenues. Property related taxes received through March totaled 79% of budget. The amount of Sales Tax collected was 65% of the sales tax revenue budget and was 10% less than at this time last year. Only 51% of franchise fees has been collected to date because the annual franchise fees for PG&E are not due to the City until April. Refuse franchise fees collected for the first two quarters of the year were 49% of the amount budgeted. Business license and other permit collections were 85% of the budgeted amount because business license renewals were collected in June and July. Motor Vehicle-in-Lieu revenues were 77% of the budgeted amounts, up 6% compared to last year. Interest & Other Revenue were only 47% of budget and reflected interest earnings through December. Interest earnings for the quarter ended March 31 will be posted in April and are not reflected in this total. The amount of Interest & Other Revenue collected was low because the City did not begin to collect rental income for Community & Cultural Center rental activity until half way through the fiscal year and because declining interest rates have generated less interest earnings.
- \* The General Fund expenditures and encumbrances to date totaled 68% of the budgeted appropriations. This total includes several activities for projects started in the last fiscal year; these projects and the related encumbrances were carried forward from the prior fiscal year.
- \* **Transient Occupancy (Hotel) Tax** - The TOT rate is 10%. The City received \$469,711 in revenue for the first two quarters of the fiscal year. The amount received was slightly more than the amount received in the same period for the prior year.
- \* **Community Development** - Revenues were 84% of budget, which was 25% more than the amount collected in the like period for the prior year. Planning expenditures plus encumbrances were 73% of budget, Building has expended or encumbered 65% of budget and Engineering 69%. Community Development has expended or encumbered a combined total of 69% of the 2002/03 budget, including \$345,794 in encumbrances.
- \* **RDA and Housing** - Property tax increment revenues of \$11,508,682, or 74% of budget, have been received as of March 31. Redevelopment expenditures plus encumbrances for Business Assistance and Housing were 48% of budget, including \$2,089,400 in encumbrances.
- \* **Water and Sewer Operations**- Water Operations revenues, including service fees, were 76% of budget. Expenditures totaled 56% of appropriations. Sewer Operations revenues, including service fees, were 68% of budget. Expenditures for sewer operations were 67% of budget.
- \* **Investments maturing/called/sold during this period.** - During the month of March, \$12 million in federal agency investments was called, due to declining interest rates, and \$8 million was reinvested in federal agency investments. Further details of all City investments are contained on pages 6-8 of this report.





# Morgan Hill YTD Revenue & Expense Summary

March 31, 2003 – 75% Year Complete



FUND NAME	REVENUES		EXPENSES		3/31/2003 UNRESTRICTED FUND BALANCE
	ACTUAL	% OF BUDGET	ACTUAL plus ENCUMBRANCES	% OF BUDGET	
General Fund	\$10,883,618	67%	\$11,533,812	68%	\$10,582,232
Community Development	1,782,748	84%	2,572,061	69%	1,088,214
RDA	9,291,192	72%	17,011,184	52%	12,999,942
Housing/CDBG	2,577,023	68%	2,000,561	29%	4,558,886
Sewer Operations	3,966,892	68%	4,643,888	67%	4,870,046
Sewer Other	1,134,013	65%	2,768,272	45%	11,176,160
Water	5,949,378	59%	8,553,835	49%	6,780,707
Other Special Revenues <sup>1</sup>	738,524	68%	1,308,364	41%	2,844,497
Capital Projects & Streets Funds	3,326,454	55%	5,076,079	30%	21,530,597
Debt Service Funds	140,638	64%	517,868	105%	362,562
Internal Service	3,753,778	92%	3,606,401	87%	4,279,802
Agency	1,279,047	50%	3,131,972	91%	4,005,698
<b>TOTAL FOR ALL FUNDS</b>	<b>\$44,823,305</b>	<b>67%</b>	<b>\$62,724,297</b>	<b>54%</b>	<b>\$85,079,343</b>

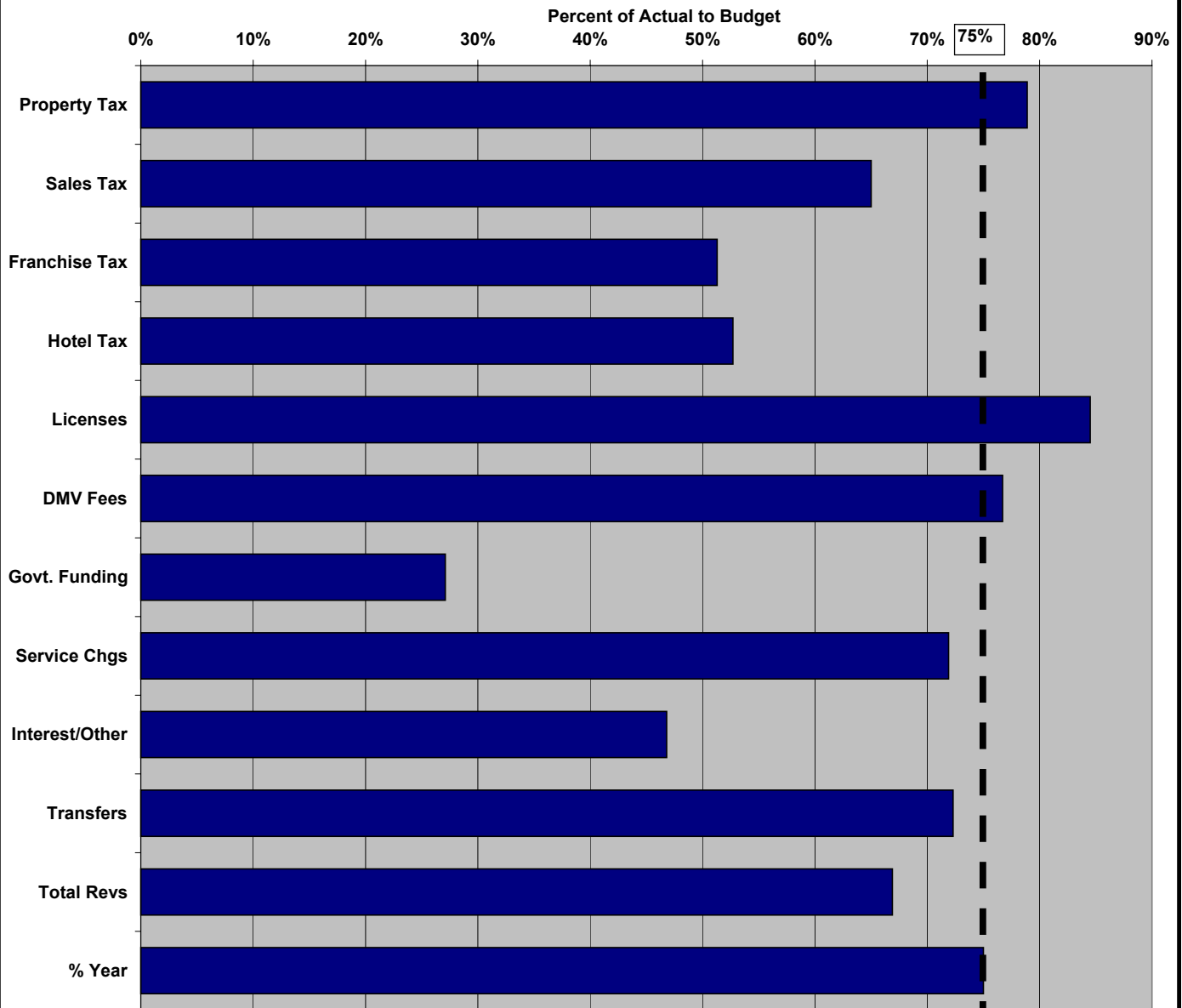
<sup>1</sup> Includes all Special Revenue Funds except Community Development, CDBG, and Street Funds





# Morgan Hill YTD General Fund Revenues

March 31, 2003 – 75% Year Complete



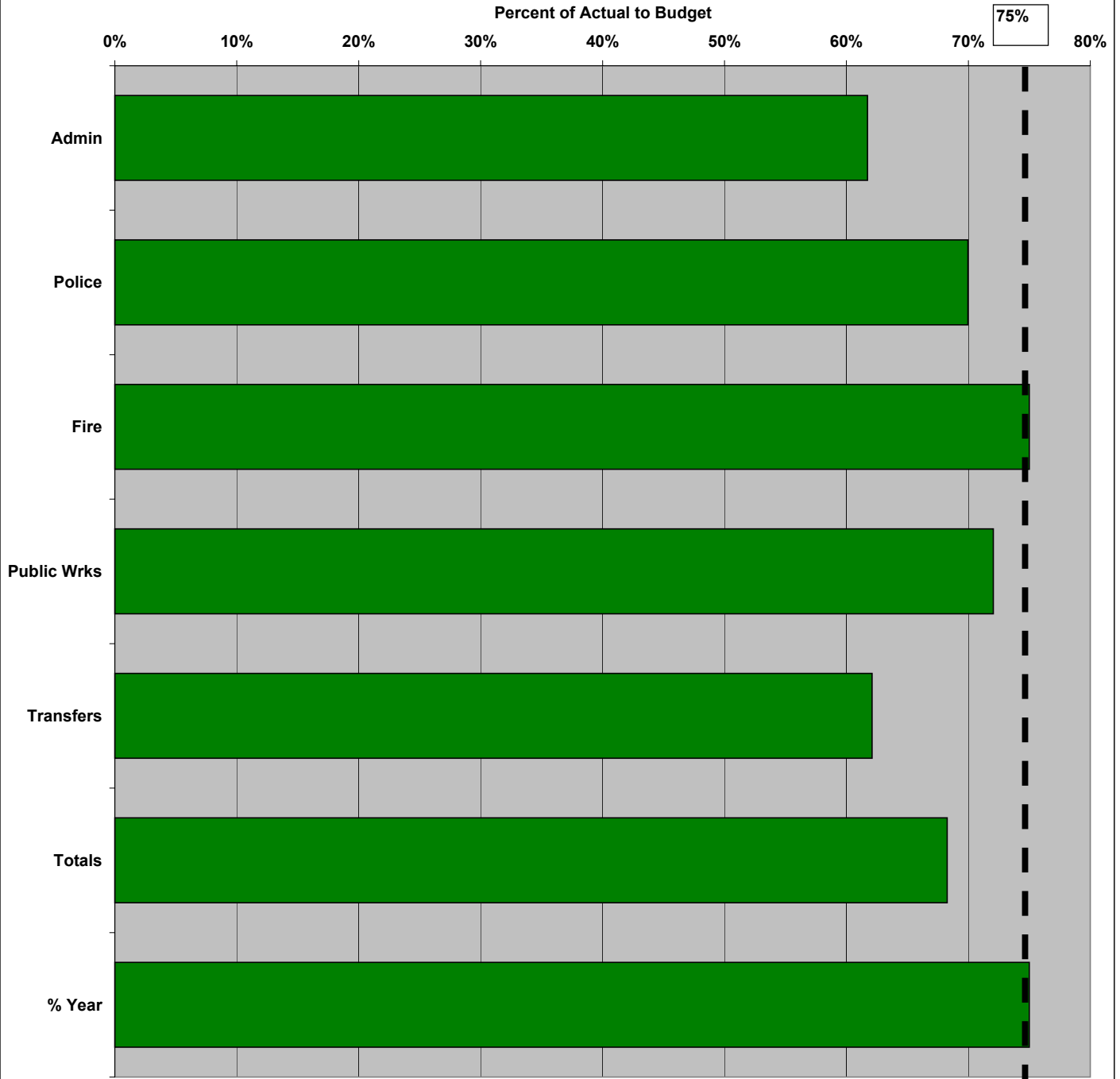
REVENUE CATEGORY	BUDGET	ACTUAL	% OF BUDGET	PRIOR YEAR TO DATE	% CHANGE FROM PRIOR YEAR
PROPERTY RELATED TAXES	\$2,228,000	\$1,757,906	79%	\$1,570,352	12%
SALES TAXES	\$5,618,400	\$3,654,507	65%	\$4,056,759	-10%
FRANCHISE FEE	\$965,000	\$495,421	51%	\$441,391	12%
HOTEL TAX	\$892,000	\$469,711	53%	\$468,798	
LICENSES/PERMITS	\$209,450	\$177,027	85%	\$186,106	-5%
MOTOR VEHICLE IN LIEU	\$1,965,000	\$1,506,428	77%	\$1,417,956	6%
FUNDING - OTHER GOVERNMENTS	\$228,300	\$61,946	27%	\$174,525	-65%
CHARGES CURRENT SERVICES	\$2,312,076	\$1,661,836	72%	\$1,405,055	18%
INTEREST & OTHER REVENUE	\$917,850	\$429,837	47%	\$372,228	15%
TRANSFERS IN	\$925,332	\$668,999	72%	\$452,395	48%
TOTALS	\$16,261,408	\$10,883,618	67%	\$10,545,565	3%





# Morgan Hill YTD General Fund Expenditures

March 31, 2003 – 75% Year Complete



Expenditure Category	Budget	Actual Plus Encumbrances	% of Budget
ADMINISTRATION	5,412,625	3,340,918	62%
POLICE	6,443,305	4,508,020	70%
FIRE	3,623,938	2,717,953	75%
PUBLIC WORKS	879,230	633,421	72%
TRANSFERS OUT	537,000	333,500	62%
TOTALS	\$ 16,896,098	\$ 11,533,812	68%





**City of Morgan Hill**  
**Fund Activity Summary - Fiscal Year 2002/03**  
**For the Month of March 2003**  
**75% of Year Completed**

Fund No.	Fund	Fund Balance 06-30-02	Revenues		Expenses		Year to-Date Deficit or Carryover	Ending Fund Balance		Cash and Investments	
			YTD Actual	% of Budget	YTD Actual	% of Budget		Reserved <sup>1</sup>	Unreserved	Unrestricted	Restricted <sup>2</sup>
010	GENERAL FUND	\$11,232,426	\$10,883,618	67%	\$11,355,177	67%	(\$471,559)	\$178,635	\$10,582,232	\$11,700,194	\$4,150
<b>TOTAL GENERAL FUND</b>		<b>\$11,232,426</b>	<b>\$10,883,618</b>	<b>67%</b>	<b>\$11,355,177</b>	<b>67%</b>	<b>(\$471,559)</b>	<b>\$178,635</b>	<b>\$10,582,232</b>	<b>\$11,700,194</b>	<b>\$4,150</b>
202	STREET MAINTENANCE	\$1,615,397	\$1,229,877	68%	\$1,296,265	39%	(\$66,388)	\$869,871	\$679,138	\$1,452,351	\$10,794
204/205	PUBLIC SAFETY/SUPPL. LAW	\$641,108	\$149,534	93%	\$247,903	79%	(\$98,369)		\$542,739	\$542,739	
206	COMMUNITY DEVELOPMENT	\$1,877,527	\$1,782,748	84%	\$2,226,267	60%	(\$443,519)	\$345,794	\$1,088,214	\$1,505,112	
207	GENERAL PLAN UPDATE	\$110,827	\$87,355	77%	\$8,825	4%	\$78,530	\$159,263	\$30,094	\$189,518	
210	COMMUNITY CENTER	\$754,628	\$113,727	96%	\$390,249	75%	(\$276,522)		\$478,106	\$478,107	
215 / 216	CDBG	\$566,540	\$15,437	7%	\$4,893	2%	\$10,544	392,996	\$184,088	\$149,942	
220	MUSEUM RENTAL	\$3,807	\$54	25%	\$2,281	74%	(\$2,227)		\$1,580	\$1,580	
225	ASSET SEIZURE	\$56,567	\$862	42%	\$20,000	59%	(\$19,138)		\$37,429	\$37,429	
226	OES/FEMA			n/a							
229	LIGHTING AND LANDSCAPE	\$64,203	\$68,325	64%	\$103,179	74%	(\$34,854)	\$18,392	\$10,957	\$29,645	
232	ENVIRONMENT PROGRAMS	\$465,250	\$231,551	61%	\$205,780	54%	\$25,771	\$52,779	\$438,242	\$493,337	
234	MOBILE HOME PK RENT STAB.	\$53,314	\$6,665	266%	\$37,235	53%	(\$30,570)		\$22,744	\$22,744	
235	SENIOR HOUSING	\$236,123	\$15,070	18%			\$15,070		\$251,193	\$251,193	
236	HOUSING IN LIEU	\$1,028,510	\$16,862	45%	11,875	53%	\$4,987	8,625	\$1,024,872	\$1,033,497	
240	EMPLOYEE ASSISTANCE		\$48,519	60%	41,978	1%	\$6,541		\$6,541	\$6,541	
<b>TOTAL SPECIAL REVENUE FUNDS</b>		<b>\$7,473,801</b>	<b>\$3,766,586</b>	<b>72%</b>	<b>\$4,596,730</b>	<b>46%</b>	<b>(\$830,144)</b>	<b>\$1,847,720</b>	<b>\$4,795,937</b>	<b>\$6,193,735</b>	<b>\$10,794</b>
301	PARK DEV. IMPACT FUND	\$2,871,149	\$354,626	31%	\$117,688	4%	\$236,938	\$48,549	\$3,059,538		\$3,108,087
302	PARK MAINTENANCE	\$2,692,750	\$271,713	175%	\$78,809	46%	\$192,904		\$2,885,654	\$2,885,653	
303	LOCAL DRAINAGE	\$2,534,182	\$255,768	81%	\$8,211	0%	\$247,557		\$2,781,739		\$2,781,739
304	LOCAL DRAINAGE/NON-AB1600	\$3,067,721	\$212,127	152%	\$81,267	20%	\$130,860		\$3,198,581	\$3,058,581	
305	OFF-STREET PARKING	\$3,886	\$64	42%			\$64		\$3,950	\$3,950	
306	OPEN SPACE	\$244,803	\$4,017	n/a			\$4,017		\$248,820	\$248,820	
309	TRAFFIC IMPACT FUND	\$2,870,728	\$377,770	35%	\$615,987	40%	(\$238,217)	\$548,317	\$2,084,194		\$2,620,779
311	POLICE IMPACT FUND	\$1,168,761	\$61,590	95%	\$79,548	8%	(\$17,958)		\$1,150,803		\$1,150,803
313	FIRE IMPACT FUND	\$2,515,636	\$164,799	99%	\$151,727	100%	\$13,072		\$2,528,708		\$2,528,708
317	REDEVELOPMENT AGENCY	\$22,668,149	\$9,291,192	72%	\$14,996,071	46%	(\$5,704,879)	3,963,329	\$12,999,942	\$14,997,246	
327 / 328	HOUSING	\$20,823,005	\$2,561,586	72%	\$1,888,974	27%	\$672,612	17,120,819	\$4,374,798	\$4,452,102	
340	MORGAN HILL BUS.RANCH I	\$46,679	\$765	42%			\$765		\$47,444	\$47,444	
342	MORGAN HILL BUS.RANCH II	\$52,423	\$860	42%			\$860		\$53,283	\$53,283	
346	PUBLIC FACILITIES NON-AB1600	\$1,033,867	\$242,853	95%			\$242,853		\$1,276,720	\$1,089,220	
347	PUBLIC FACILITIES IMPACT FUND	\$1,058,347	\$64,819	44%	\$289,518	25%	(\$224,699)	\$889,207	(\$55,559)		\$796,978
348	LIBRARY IMPACT FUND	\$368,112	\$31,122	86%	\$812	390%	\$30,310		\$398,422		\$398,422
350	UNDERGROUNDING	\$1,135,781	\$53,684	8%	\$303	0%	\$53,381		\$1,189,162	\$1,189,163	
<b>TOTAL CAPITAL PROJECT FUNDS</b>		<b>\$65,155,979</b>	<b>\$13,949,355</b>	<b>68%</b>	<b>\$18,308,915</b>	<b>37%</b>	<b>(\$4,359,560)</b>	<b>\$22,570,221</b>	<b>\$38,226,199</b>	<b>\$28,025,462</b>	<b>\$13,385,516</b>
527	HIDDEN CREEK			n/a							
533	DUNNE/CONDIT			n/a							
536	ENCINO HILLS	\$65,771	\$1,073	25%	\$500		\$573		\$66,344	\$66,344	
539	MORGAN HILL BUS. PARK	\$11,486	\$183	2%	\$562		(\$379)		\$11,107	\$11,106	
542	SUTTER BUSINESS PARK	\$24,079	\$395	6%			\$395		\$24,474	\$24,474	
545	COCHRANE BUSINESS PARK	\$606,826	\$122,068	77%	\$475,983	106%	(\$353,915)		\$252,911	\$71,961	\$180,950
551	JOLEEN WAY	\$31,630	\$16,919	39%	\$40,823	96%	(\$23,904)		\$7,726		\$7,727
<b>TOTAL DEBT SERVICE FUNDS</b>		<b>\$739,792</b>	<b>\$140,638</b>	<b>64%</b>	<b>\$517,868</b>	<b>105%</b>	<b>(\$377,230)</b>		<b>\$362,562</b>	<b>\$173,885</b>	<b>\$188,677</b>





**City of Morgan Hill**  
**Fund Activity Summary - Fiscal Year 2002/03**  
**For the Month of March 2003**  
**75% of Year Completed**

Fund No.	Fund	Fund Balance 06-30-02	Revenues		Expenses		Year to-Date Deficit or Carryover	Ending Fund Balance		Cash and Investments	
			YTD Actual	% of Budget	YTD Actual	% of Budget		Reserved <sup>1</sup>	Unreserved	Unrestricted	Restricted <sup>2</sup>
640	SEWER OPERATIONS	\$17,312,471	\$3,966,892	68%	\$4,583,354	66%	(\$616,462)	\$11,825,963	\$4,870,046	\$4,600,029	\$1,862,682
641	SEWER IMPACT FUND	\$7,244,335	\$554,818	43%	\$1,654,333	36%	(\$1,099,515)	1,572,572	\$4,572,248		\$4,781,906
642	SEWER RATE STABILIZATION	\$3,469,485	\$270,921	220%	\$1,643	75%	\$269,278		\$3,738,763	\$3,738,763	
643	SEWER-CAPITAL PROJECTS	\$9,417,751	\$308,274	51%	\$990,080	31%	(\$681,806)	5,870,796	\$2,865,149	\$2,976,293	
650	WATER OPERATIONS	\$23,155,862	\$4,908,632	76%	\$5,021,943	24%	(\$113,311)	\$20,023,722	\$3,018,829	\$3,069,406	\$391,194
651	WATER IMPACT FUND	\$2,757,348	\$361,955	15%	\$921,193	29%	(\$559,238)	2,325,085	(\$126,976)		\$214,328
652	WATER RATE STABILIZATION	\$838,989	\$13,754	42%	\$382	75%	\$13,372		\$852,361	\$852,361	
653	WATER -CAPITAL PROJECT	\$7,869,151	\$665,037	55%	\$1,368,501	30%	(\$703,464)	4,129,194	\$3,036,493	\$3,491,312	
<b>TOTAL ENTERPRISE FUNDS</b>		<b>\$72,065,392</b>	<b>\$11,050,283</b>	<b>62%</b>	<b>\$14,541,429</b>	<b>45%</b>	<b>(\$3,491,146)</b>	<b>\$45,747,332</b>	<b>\$22,826,913</b>	<b>\$18,728,164</b>	<b>\$7,250,110</b>
730	DATA PROCESSING	\$429,425	\$285,891	75%	\$315,724	48%	(\$29,833)	98,705	\$300,887	\$353,512	
740	BUILDING MAINTENANCE	\$155,445	\$627,856	75%	\$361,882	55%	\$265,974	29,045	\$392,374	\$433,619	
745	CIP ADMINISTRATION	\$83,108	\$900,220	69%	\$900,220	66%		143,754	(\$60,646)	\$113,066	
760	UNEMPLOYMENT INS.	\$77,693		n/a	\$24,690	49%	(\$24,690)		\$53,003	\$53,003	
770	WORKER'S COMP.	\$42,756	\$326,538	82%	\$468,688	87%	(\$142,150)	\$40,150	(\$139,544)	\$573,767	\$30,000
790	EQUIPMENT REPLACEMENT	\$3,279,710	\$398,414	78%	\$18,627	10%	\$379,787	940,056	\$2,719,441	\$2,776,156	
793	CORPORATION YARD	\$412,656	\$955,809	410%	\$778,271	230%	\$177,538	246,008	\$344,186	\$160,391	
795	GEN'L LIABILITY INS.	\$833,756	\$259,050	67%	\$422,705	128%	(\$163,655)		\$670,101	\$1,018,471	
<b>TOTAL INTERNAL SERVICE FUNDS</b>		<b>\$5,314,549</b>	<b>\$3,753,778</b>	<b>92%</b>	<b>\$3,290,807</b>	<b>80%</b>	<b>\$462,971</b>		<b>\$4,279,802</b>	<b>\$5,481,985</b>	<b>\$30,000</b>
820	SPECIAL DEPOSITS									\$735,341	
841	M.H. BUS.RANCH A.D.	\$1,620,366	\$257,711	190%	\$727,100	100%	(\$469,389)		\$1,150,977	\$572,651	\$578,325
842	M.H. BUS. RANCH II A.D.	\$270,163	\$17,011	17%	\$210,900	99%	(\$193,889)		\$76,274	\$16,762	\$59,513
843	M.H. BUS. RANCH 1998	\$1,685,884	\$462,012	24%	\$1,103,316	100%	(\$641,304)		\$1,044,580	\$159,761	\$884,819
845	MADRONE BP-TAX EXEMPT	\$1,696,402	\$384,388		\$895,448	81%	(\$511,060)		\$1,185,342	\$108,286	\$1,077,056
846	MADRONE BP-TAXABLE	\$246,281	\$121,875	50%	\$194,372	70%	(\$72,497)		\$173,783	\$13,388	\$160,741
848	TENNANT AVE.BUS.PK A.D.	\$319,288	\$35,718	24%	\$836		\$34,882		\$354,170	\$354,172	
881	POLICE DONATION TRUST FUND	\$20,240	\$332	24%			\$332		\$20,572		\$20,572
<b>TOTAL AGENCY FUNDS</b>		<b>\$5,858,624</b>	<b>\$1,279,047</b>	<b>50%</b>	<b>\$3,131,972</b>	<b>91%</b>	<b>(\$1,852,925)</b>		<b>\$4,005,698</b>	<b>\$1,960,361</b>	<b>\$2,781,026</b>
<b>SUMMARY BY FUND TYPE</b>											
GENERAL FUND GROUP		\$11,232,426	\$10,883,618	67%	\$11,355,177	67%	(\$471,559)	\$178,635	\$10,582,232	\$11,700,194	\$4,150
SPECIAL REVENUE GROUP		\$7,473,801	\$3,766,586	72%	\$4,596,730	46%	(\$830,144)	\$1,847,720	\$4,795,937	\$6,193,735	\$10,794
DEBT SERVICE GROUP		\$739,792	\$140,638	64%	\$517,868	105%	(\$377,230)		\$362,562	\$173,885	\$188,677
CAPITAL PROJECTS GROUP		\$65,155,979	\$13,949,355	68%	\$18,308,915	37%	(\$4,359,560)	\$22,570,221	\$38,226,199	\$28,025,462	\$13,385,516
ENTERPRISE GROUP		\$72,065,392	\$11,050,283	62%	\$14,541,429	45%	(\$3,491,146)	\$45,747,332	\$22,826,913	\$18,728,164	\$7,250,110
INTERNAL SERVICE GROUP		\$5,314,549	\$3,753,778	92%	\$3,290,807	80%	\$462,971		\$4,279,802	\$5,481,985	\$30,000
AGENCY GROUP		\$5,858,624	\$1,279,047	50%	\$3,131,972	91%	(\$1,852,925)		\$4,005,698	\$1,960,361	\$2,781,026
<b>TOTAL ALL GROUPS</b>		<b>\$167,840,563</b>	<b>\$44,823,305</b>	<b>67%</b>	<b>\$55,742,898</b>	<b>48%</b>	<b>(\$10,919,593)</b>	<b>\$70,343,908</b>	<b>\$85,079,343</b>	<b>\$72,263,786</b>	<b>\$23,650,273</b>
<b>TOTAL CASH AND INVESTMENTS</b>										<b>\$95,914,059</b>	

For Enterprise Funds - Unrestricted fund balance = Fund balance net of fixed assets and long-term liabilities.

<sup>1</sup> Amount restricted for encumbrances, fixed asset replacement, long-term receivables, and bond reserves.

<sup>2</sup> Amount restricted for debt service payments and AB1600 capital expansion projects as detailed in the City's five year CIP Plan and bond agreements.





**CITY OF MORGAN HILL CASH AND INVESTMENT REPORT**  
**FOR THE MONTH OF MARCH 2003**  
**FOR THE FISCAL YEAR OF 2002-03**

	Invested in Fund	Yield	Book Value End of Month	Investment Category Subtotal at Cost	% of Total	Market Value
<b>Investments</b>						
State Treasurer LAIF - City	All Funds Pooled	1.89%	\$33,268,690		34.69%	\$33,402,749
- RDA	RDA	1.89%	\$18,193,812		18.97%	\$18,267,126
- Corp Yard	Corp Yard	1.89%	\$51,123		0.05%	\$51,329
Federal Issues	All Funds Pooled	4.42%	\$25,500,000		26.59%	\$25,675,740
Money Market	All Funds Pooled	1.20%	\$11,588,096	\$88,601,721	12.08%	\$11,588,096
<b>Bond Reserve Accounts - held by trustees</b>						
BNY - 1992 SCRWA Bonds						
Blackrock Provident Temp Fund	Sewer	1.39%	\$1,862,682		1.94%	\$1,862,682 *
US Bank - 1999 Water C.O.P.						
First American Treasury Obligation	Water	1.29%	\$391,194		0.41%	\$391,194 *
US Bank - MH Ranch 98	MH Ranch					
First American Treasury Obligation	Agency Fund	1.29%	\$884,819		0.92%	\$884,819 *
US Bank - Madrone Bus Park Tax Exempt	Madrone Bus Park					
First American Treasury Obligation	Agency Fund	1.29%	\$1,077,056		1.12%	\$1,077,056 *
US Bank - Madrone Bus Park Taxable	Madrone Bus Park					
First American Treasury Obligation	Agency Fund	1.29%	\$160,740	\$4,376,491	0.17%	\$160,740 *
<b>Checking Accounts</b>						
General Checking	All Funds		\$2,901,697		3.03%	\$2,901,697
Dreyfuss Treas Cash Management Account	All Funds				0.00%	\$0
Athens Administrators Workers' Comp	Workers' Comp		\$30,000		0.03%	\$30,000
Petty Cash & Emergency Cash	Various Funds		\$4,150	\$2,935,847	0.00%	\$4,150
<b>Total Cash and Investments</b>			<b>\$95,914,059</b>	<b>\$95,914,059</b>	<b>100.00%</b>	<b>\$96,297,378</b>

**CASH ACTIVITY SUMMARY**  
**FY 02/03**

Fund Type	07/01/02 Balance	Change in Cash Balance	03/31/03 Balance	Restricted	Unrestricted
General Fund	\$11,396,207	\$308,137	\$11,704,344	\$4,150	\$11,700,194
Community Development	\$2,011,445	(\$506,333)	\$1,505,112	\$0	\$1,505,112
RDA (except Housing)	\$22,128,854	(\$7,131,608)	\$14,997,246	\$0	\$14,997,246
Housing / CDBG	\$4,167,760	\$434,284	\$4,602,044	\$0	\$4,602,044
Water	\$9,541,195	(\$1,522,594)	\$8,018,601	\$605,522	\$7,413,079
Sewer - Operations	\$7,057,299	(\$594,588)	\$6,462,711	\$1,862,682	\$4,600,029
Sewer Other	\$13,270,287	(\$1,773,324)	\$11,496,963	\$4,781,906	\$6,715,057
Other Special Revenue	\$3,379,537	(\$293,208)	\$3,086,329	\$0	\$3,086,329
Streets and Capital Projects (except RDA)	\$23,005,915	\$418,859	\$23,424,774	\$13,396,310	\$10,028,465
Assessment Districts	\$736,561	(\$373,999)	\$362,562	\$188,677	\$173,885
Internal Service	\$5,284,536	\$227,450	\$5,511,986	\$30,000	\$5,481,986
Agency Funds	\$6,427,696	(\$1,686,309)	\$4,741,387	\$2,781,026	\$1,960,361
<b>Total</b>	<b>\$108,407,292</b>	<b>(\$12,493,233)</b>	<b>\$95,914,059</b>	<b>\$23,650,273</b>	<b>\$72,263,786</b>

Note: See Investment Portfolio Detail for maturities of "Investments." Market values are obtained from the City's investment brokers' monthly reports.  
 \*Market Value as of 02/28/03

I certify the information on the investment reports on pages 6-8 has been reconciled to the general ledger and bank statements and that there are sufficient funds to meet the expenditure requirements of the City for the next six months. The portfolio is in compliance with the City of Morgan Hill investment policy and all State laws and regulations.

Prepared by: \_\_\_\_\_  
 Lourdes Reroma  
 Accountant I

Approved by: \_\_\_\_\_  
 Jack Dilles  
 Director of Finance

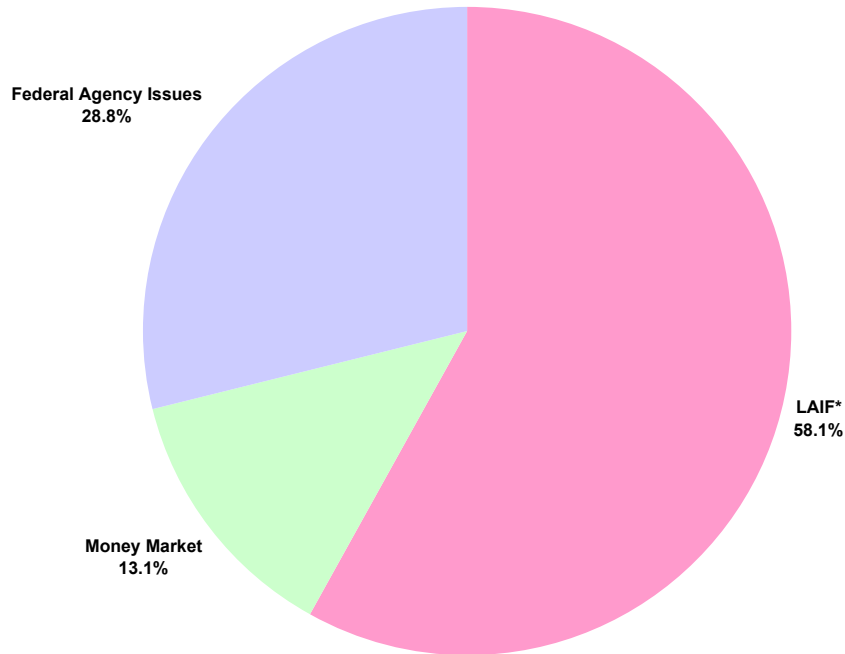
Verified by: \_\_\_\_\_  
 Tina Reza  
 Assistant Director of Finance

\_\_\_\_\_  
 Mike Roorda  
 City Treasurer





## CITY OF MORGAN HILL INVESTMENT PORTFOLIO DETAIL as of 03/31/03



Investment Type	Purchase Date	Book Value	% of Portfolio	Market Value	Stated Rate	Interest Earned	Next Call Date	Date of Maturity	Years to Maturity
<b>LAIF*</b>									
		\$51,513,624	58.14%	\$51,721,204	1.890%	\$901,246			0.003
<b>Federal Agency Issues</b>									
Fed Natl Mortgage Assn	05/02/02	\$2,000,000	2.26%	\$2,005,000	4.125%	\$61,984	05/02/03	11/02/04	1.592
Fed Home Loan Bank	04/11/01	\$2,000,000	2.26%	\$2,002,500	5.300%	\$79,629	04/11/03	04/11/05	2.030
Fed Natl Mortgage Assn	08/01/01	\$1,500,000	1.69%	\$1,520,160	5.200%	\$58,392	08/01/05	08/01/05	2.337
Fed Farm Credit Bank	03/18/03	\$2,000,000	2.26%	\$2,008,760	3.350%	\$2,549	06/18/03	06/18/07	4.216
Fed Home Loan Bank	07/09/02	\$4,000,000	4.51%	\$4,040,000	4.875%	\$141,671	07/09/03	07/09/07	4.274
Fed Home Loan Bank	08/20/02	\$2,000,000	2.26%	\$2,023,760	4.250%	\$51,892	08/20/03	08/20/07	4.389
Fed Natl Mortgage Assn	09/27/02	\$2,000,000	2.26%	\$2,027,500	4.000%	\$41,087	09/27/03	09/27/07	4.493
Fed Home Loan Mgt Corp	10/23/02	\$2,000,000	2.26%	\$2,003,480	4.107%	\$36,105	04/23/03	10/23/07	4.564
Fed Home Loan Bank	02/04/03	\$2,000,000	2.26%	\$2,015,620	3.900%	\$12,066	08/04/03	02/04/08	4.849
Fed Home Loan Bank	03/11/03	\$2,000,000	2.26%	\$2,012,500	3.500%	\$3,995	03/11/04	03/11/08	4.948
Fed Home Loan Mgt Corp	03/12/03	\$2,000,000	2.26%	\$2,013,340	3.500%	\$3,804	03/12/04	03/12/08	4.951
Fed Home Loan Bank	03/26/03	\$2,000,000	2.26%	\$2,003,120	3.375%	\$1,101	03/26/04	03/26/08	4.989
Redeemed FY 02/03						\$795,987			
<b>Sub Total/Average</b>		<b>\$25,500,000</b>	<b>28.78%</b>	<b>\$25,675,740</b>	<b>4.422%</b>	<b>\$1,290,262</b>			<b>4.074</b>
<b>Money Market</b>									
		\$11,588,096	13.08%	\$11,588,096	1.200%	\$17,699			0.003
<b>TOTAL/AVERAGE</b>		<b>\$88,601,721</b>	<b>100.00%</b>	<b>\$88,985,040</b>	<b>2.453%</b>	<b>\$2,209,207</b>			<b>1.419</b>

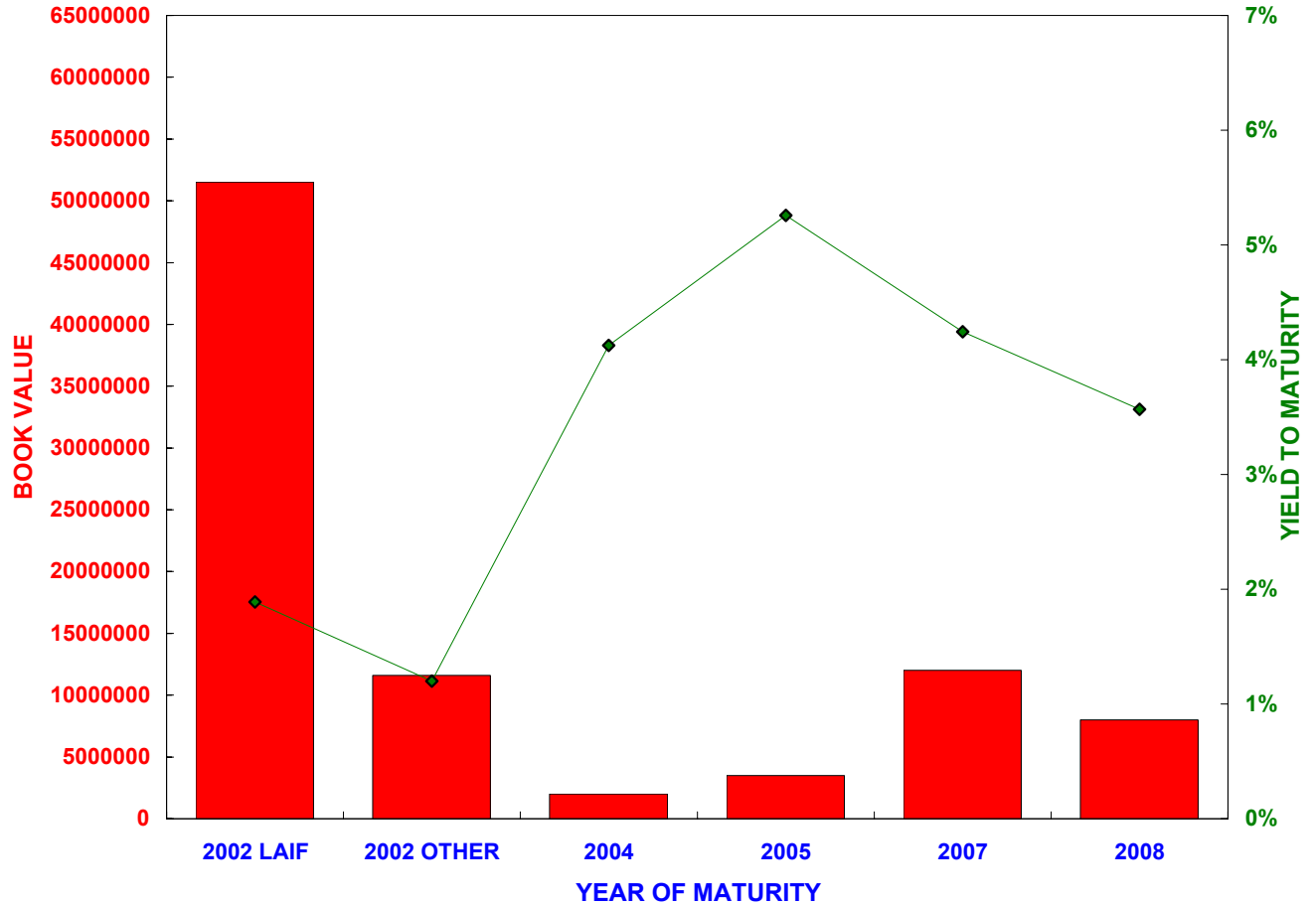
\*Per State Treasurer Report dated 02/28/2003, LAIF had invested approximately 12% of its balance in Treasury Bills and Notes, 17% in CDs, 25% in Commercial Paper and Corporate Bonds, 0% in Banker's Acceptances and 46% in others.





# CITY OF MORGAN HILL

## INVESTMENT MATURITIES AS OF MARCH 31, 2003



YEAR OF MATURITY	BOOK VALUE	MARKET VALUE	AVERAGE RATE	% OF TOTAL
2002 LAIF	\$51,513,625	\$51,721,204	1.890%	58.14%
2002 OTHER	\$11,588,096	\$11,588,096	1.200%	13.08%
2004	\$2,000,000	\$2,005,000	4.125%	2.26%
2005	\$3,500,000	\$3,522,660	5.257%	3.95%
2007	\$12,000,000	\$12,103,500	4.243%	13.54%
2008	\$8,000,000	\$8,044,580	3.569%	9.03%
TOTAL	\$88,601,722	\$88,985,040	2.453%	100.00%





City of Morgan Hill  
Year to Date Revenues - Fiscal Year 2002/03  
For the Month of March 2003  
75% of Year Completed

FUND REVENUE SOURCE	ADOPTED BUDGET	AMENDED BUDGET	CURRENT YTD ACTUAL	% OF BUDGET	PRIOR YTD	INCR (DECR) FROM PRIOR YTD	% OF BUDGET
<b>010 GENERAL FUND</b>							
<b><u>TAXES</u></b>							
Property Taxes - Secured/Unsecured/Prio	1,883,000	1,883,000	1,491,237	79%	1,321,614	169,623	13%
Supplemental Roll	125,000	125,000	104,503	84%	112,358	(7,855)	-7%
Sales Tax	5,330,000	5,330,000	3,472,105	65%	3,859,337	(387,232)	-10%
Public Safety Sales Tax	288,400	288,400	182,402	63%	197,422	(15,020)	-8%
Transient Occupancy Taxes	892,000	892,000	469,711	53%	468,798	913	0%
Franchise (Refuse ,Cable ,PG&E)	965,000	965,000	495,421	51%	441,391	54,030	12%
Property Transfer Tax	220,000	220,000	162,166	74%	136,380	25,786	19%
<b>TOTAL TAXES</b>	<b>9,703,400</b>	<b>9,703,400</b>	<b>6,377,545</b>	<b>66%</b>	<b>6,537,300</b>	<b>(159,755)</b>	<b>-2%</b>
<b><u>LICENSES/PERMITS</u></b>							
Business License	164,000	164,000	145,330	89%	153,546	(8,216)	-5%
Other Permits	45,450	45,450	31,697	70%	32,560	(863)	-3%
<b>TOTAL LICENSES/PERMITS</b>	<b>209,450</b>	<b>209,450</b>	<b>177,027</b>	<b>85%</b>	<b>186,106</b>	<b>(9,079)</b>	<b>-5%</b>
<b><u>FINES AND PENALTIES</u></b>							
Parking Enforcement	15,000	15,000	6,987	47%	9,252	(2,265)	-24%
City Code Enforcement	82,000	82,000	40,964	50%	62,582	(21,618)	-35%
Business tax late fee/other fines	-	2,500	1,713	n/a	2,350	(637)	-27%
<b>TOTAL FINES AND PENALTIES</b>	<b>97,000</b>	<b>99,500</b>	<b>49,664</b>	<b>50%</b>	<b>74,184</b>	<b>(24,520)</b>	<b>-33%</b>
<b><u>OTHER AGENCIES</u></b>							
Motor Vehicle in-Lieu	1,965,000	1,965,000	1,506,428	77%	1,417,956	88,472	6%
Other Revenue - Other Agencies	228,300	228,300	61,946	27%	174,525	(112,579)	-65%
<b>TOTAL OTHER AGENCIES</b>	<b>2,193,300</b>	<b>2,193,300</b>	<b>1,568,374</b>	<b>72%</b>	<b>1,592,481</b>	<b>(24,107)</b>	<b>-2%</b>
<b><u>CHARGES CURRENT SERVICES</u></b>							
False Alarm Charge	24,000	24,000	19,092	80%	11,742	7,350	63%
Business License Application Review	18,000	18,000	18,507	103%	17,554	953	5%
Recreation Classes	231,741	231,741	76,165	33%	23,488	52,677	224%
General Administration Overhead	1,855,937	1,855,937	1,391,951	75%			
Other Charges Current Services	184,898	182,398	156,121	86%	1,352,271	(1,196,150)	-88%
<b>TOTAL CURRENT SERVICES</b>	<b>2,314,576</b>	<b>2,312,076</b>	<b>1,661,836</b>	<b>72%</b>	<b>1,405,055</b>	<b>(1,135,170)</b>	<b>-81%</b>
<b><u>OTHER REVENUE</u></b>							
Use of money/property	724,400	739,400	332,215	45%	221,326	110,889	50%
Other revenues	78,950	78,950	47,958	61%	76,718	(28,760)	-37%
<b>TOTAL OTHER REVENUE</b>	<b>803,350</b>	<b>818,350</b>	<b>380,173</b>	<b>46%</b>	<b>298,044</b>	<b>82,129</b>	<b>28%</b>
<b><u>TRANSFERS IN</u></b>							
Park Maintenance	100,000	100,000	50,000	50%	50,000	-	n/a
Sewer Enterprise	17,500	17,500	13,125	75%	11,250	1,875	17%
Water Enterprise	17,500	17,500	13,125	75%	11,250	1,875	17%
Public Safety	270,000	270,000	202,500	75%	159,422	43,078	27%
Other Funds	520,332	520,332	390,249	75%	220,473	169,776	77%
<b>TOTAL TRANSFERS IN</b>	<b>925,332</b>	<b>925,332</b>	<b>668,999</b>	<b>72%</b>	<b>452,395</b>	<b>216,604</b>	<b>48%</b>
<b>TOTAL GENERAL FUND</b>	<b>16,246,408</b>	<b>16,261,408</b>	<b>10,883,618</b>	<b>67%</b>	<b>10,545,565</b>	<b>338,053</b>	<b>3%</b>





City of Morgan Hill  
Year to Date Revenues - Fiscal Year 2002/03  
For the Month of March 2003  
75% of Year Completed

FUND REVENUE SOURCE	ADOPTED BUDGET	AMENDED BUDGET	CURRENT YTD ACTUAL	% OF BUDGET	PRIOR YTD	INCR (DECR) FROM PRIOR YTD	% OF BUDGET
<b>SPECIAL REVENUE FUNDS</b>							
<b>202 STREET MAINTENANCE</b>							
Gas Tax 2105 - 2107.5	658,000	658,000	493,720	75%	502,007	(8,287)	-2%
Measure A & B	-	-	-	n/a	-	-	n/a
Tea 21	-	-	-	n/a	-	-	n/a
Transfers In	977,000	977,000	638,500	65%	517,500	121,000	23%
Project Reimbursement	117,000	117,000	70,402	60%	-	70,402	n/a
Interest / Other Revenue/Other Charges	55,500	55,500	27,255	49%	49,704	(22,449)	-45%
<b>202 STREET MAINTENANCE</b>	<b>1,807,500</b>	<b>1,807,500</b>	<b>1,229,877</b>	<b>68%</b>	<b>1,069,211</b>	<b>160,666</b>	<b>15%</b>
<b>204/205 PUBLIC SAFETY TRUST</b>							
Interest Income	30,400	30,400	10,895	36%	10,117	778	8%
Police Grant/SLEF	100,000	100,000	100,000	100%	100,000	-	n/a
PD Block Grant	-	-	-	n/a	10,070	(10,070)	-100%
CA Law Enforcement Equip. Grant	-	-	20,765	n/a	40,663	(19,898)	-49%
Federal Police Grant (COPS)	30,000	30,000	17,874	60%	41,226	(23,352)	-57%
Transfers In	-	-	-	n/a	-	-	n/a
<b>204/205 PUBLIC SAFETY TRUST</b>	<b>160,400</b>	<b>160,400</b>	<b>149,534</b>	<b>93%</b>	<b>202,076</b>	<b>(52,542)</b>	<b>-26%</b>
<b>206 COMMUNITY DEVELOPMENT</b>							
Building Fees	1,134,000	1,134,000	911,929	80%	735,094	176,835	24%
Planning Fees	438,147	438,147	405,711	93%	210,440	195,271	93%
Engineering Fees	480,000	480,000	433,552	90%	306,298	127,254	42%
Other Revenue/Current Charges	66,276	66,276	31,556	48%	36,936	(5,380)	-15%
Transfers	-	-	-	n/a	138,989	(138,989)	-100%
<b>206 COMMUNITY DEVELOPMENT</b>	<b>2,118,423</b>	<b>2,118,423</b>	<b>1,782,748</b>	<b>84%</b>	<b>1,427,757</b>	<b>354,991</b>	<b>25%</b>
<b>207 GENERAL PLAN UPDATE</b>	<b>113,582</b>	<b>113,582</b>	<b>87,355</b>	<b>77%</b>	<b>25,231</b>	<b>62,124</b>	<b>246%</b>
<b>215 and 216 HCD BLOCK GRANT</b>							
HCD allocation	181,306	181,306	-	n/a	-	-	n/a
Interest Income/Other Revenue	50,000	50,000	15,437	31%	3,550	11,887	335%
Transfers	-	-	-	n/a	-	-	n/a
<b>215 and 216 HCD BLOCK GRANT</b>	<b>231,306</b>	<b>231,306</b>	<b>15,437</b>	<b>7%</b>	<b>3,550</b>	<b>11,887</b>	<b>335%</b>
<b>210 COMMUNITY CENTER</b>	<b>119,041</b>	<b>119,041</b>	<b>113,727</b>	<b>96%</b>	<b>210,183</b>	<b>(96,456)</b>	<b>-46%</b>
<b>220 MUSEUM RENTAL</b>	<b>212</b>	<b>212</b>	<b>54</b>	<b>25%</b>	<b>65</b>	<b>(11)</b>	<b>-17%</b>
<b>225 ASSET SEIZURE</b>	<b>2,057</b>	<b>2,057</b>	<b>862</b>	<b>42%</b>	<b>466</b>	<b>396</b>	<b>85%</b>
<b>226 OES/FEMA</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>n/a</b>	<b>5,093</b>	<b>(5,093)</b>	<b>-100%</b>
<b>229 LIGHTING AND LANDSCAPE</b>	<b>107,429</b>	<b>107,429</b>	<b>68,325</b>	<b>64%</b>	<b>57,638</b>	<b>10,687</b>	<b>19%</b>
<b>232 ENVIRONMENTAL PROGRAMS</b>	<b>380,755</b>	<b>380,755</b>	<b>231,551</b>	<b>61%</b>	<b>194,275</b>	<b>37,276</b>	<b>19%</b>
<b>234 MOBILE HOME PARK RENT STAB.</b>	<b>2,507</b>	<b>2,507</b>	<b>6,665</b>	<b>266%</b>	<b>45,815</b>	<b>(39,150)</b>	<b>-85%</b>
<b>235 SENIOR HOUSING</b>	<b>85,541</b>	<b>85,541</b>	<b>15,070</b>	<b>18%</b>	<b>14,125</b>	<b>945</b>	<b>7%</b>
<b>236 HOUSING MITIGATION</b>	<b>37,500</b>	<b>37,500</b>	<b>16,862</b>	<b>45%</b>	<b>-</b>	<b>16,862</b>	<b>n/a</b>
<b>240 EMPLOYEE ASSISTANCE</b>	<b>80,786</b>	<b>80,786</b>	<b>48,519</b>	<b>60%</b>	<b>-</b>	<b>48,519</b>	<b>n/a</b>
<b>TOTAL SPECIAL REVENUE FUNDS</b>	<b>5,247,039</b>	<b>5,247,039</b>	<b>3,766,586</b>	<b>72%</b>	<b>3,255,485</b>	<b>511,101</b>	<b>16%</b>





City of Morgan Hill  
Year to Date Revenues - Fiscal Year 2002/03  
For the Month of March 2003  
75% of Year Completed

FUND REVENUE SOURCE	ADOPTED BUDGET	AMENDED BUDGET	CURRENT YTD ACTUAL	% OF BUDGET	PRIOR YTD	INCR (DECR) FROM PRIOR YTD	% OF BUDGET
<b>CAPITAL PROJECTS FUNDS</b>							
301 PARK DEVELOPMENT	1,129,006	1,129,006	354,626	31%	190,896	163,730	86%
302 PARK MAINTENANCE	155,300	155,300	271,713	175%	145,333	126,380	87%
303 LOCAL DRAINAGE	315,223	315,223	255,768	81%	179,298	76,470	43%
304 LOCAL DRAINAGE/NON AB1600	139,949	139,949	212,127	152%	90,073	122,054	136%
305 OFF-STREET PARKING	152	152	64	42%	46	18	39%
306 OPEN SPACE			4,017	n/a		4,017	n/a
309 TRAFFIC MITIGATION	1,080,268	1,080,268	377,770	35%	1,123,135	(745,365)	-66%
311 POLICE MITIGATION	64,919	64,919	61,590	95%	28,460	33,130	116%
313 FIRE MITIGATION	166,935	166,935	164,799	99%	85,063	79,736	94%
<b>317 RDA CAPITAL PROJECTS</b>							
Property Taxes & Supplemental Roll	12,084,000	12,084,000	9,027,512	75%	7,722,269	1,305,243	17%
Development Agreements	-	-	-	n/a	-	-	n/a
Interest Income, Rents	595,853	595,853	218,437	37%	530,428	(311,991)	-59%
Other Agencies/Current Charges	152,500	152,500	45,243	30%	484,758	(439,515)	-91%
<b>317 RDA CAPITAL PROJECTS</b>	<b>12,832,353</b>	<b>12,832,353</b>	<b>9,291,192</b>	<b>72%</b>	<b>8,737,455</b>	<b>553,737</b>	<b>6%</b>
<b>327/328 RDA L/M HOUSING</b>							
Property Taxes & Supplemental Roll	3,438,000	3,438,000	2,481,170	72%	2,129,451	351,719	17%
Interest Income, Rent	100,000	100,000	79,697	80%	79,579	118	0%
Other	590	590	719	122%	560	159	28%
<b>327/328 RDA L/M HOUSING</b>	<b>3,538,590</b>	<b>3,538,590</b>	<b>2,561,586</b>	<b>72%</b>	<b>2,209,590</b>	<b>351,996</b>	<b>16%</b>
346 PUBLIC FACILITIES NON-AB1600	254,300	254,300	242,853	95%	203,155	39,698	20%
347 PUBLIC FACILITIES	148,617	148,617	64,819	44%	55,182	9,637	17%
348 LIBRARY	36,299	36,299	31,122	86%	18,418	12,704	69%
350 UNDERGROUNDING	692,745	692,745	53,684	8%	205,814	(152,130)	-74%
340 MORGAN HILL BUS.RANCH CIP I	1,825	1,825	765	42%	604	161	27%
342 MORGAN HILL BUS.RANCH CIP II	2,052	2,052	860	42%	623	237	38%
<b>TOTAL CAPITAL PROJECTS FUNDS</b>	<b>20,558,533</b>	<b>20,558,533</b>	<b>13,949,355</b>	<b>68%</b>	<b>13,273,145</b>	<b>676,210</b>	<b>5%</b>

**DEBT SERVICE FUNDS**

527 HIDDEN CREEK	-	-	-	n/a	-	-	n/a
533 DUNNE AVE. / CONDIT ROAD	-	-	-	n/a	-	-	n/a
536 ENCINO HILLS	4,209	4,209	1,073	25%	606	467	77%
539 MORGAN HILL BUSINESS PARK	7,707	7,707	183	2%		183	n/a
542 SUTTER BUSINESS PARK	6,215	6,215	395	6%		395	n/a
545 COCHRANE BUSINESS PARK	158,673	158,673	122,068	77%	147,241	(25,173)	-17%
551 JOLEEN WAY	43,068	43,068	16,919	39%	18,220	(1,301)	-7%
<b>TOTAL DEBT SERVICE FUNDS</b>	<b>219,872</b>	<b>219,872</b>	<b>140,638</b>	<b>64%</b>	<b>166,067</b>	<b>(25,429)</b>	<b>-15%</b>





City of Morgan Hill  
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75% of Year Completed

FUND REVENUE SOURCE	ADOPTED BUDGET	AMENDED BUDGET	CURRENT YTD ACTUAL	% OF BUDGET	PRIOR YTD	INCR (DECR) FROM PRIOR YTD	% OF BUDGET
<b>ENTERPRISE FUNDS</b>							
<b>640 SEWER OPERATION</b>							
Sewer Service Fees	5,389,650	5,389,650	3,783,950	70%	3,983,103	(199,153)	-5%
Interest Income	295,119	295,119	81,265	28%	133,029	(51,764)	-39%
Sewer Rate Stabilization	-	-	-	n/a	-	-	n/a
Other Revenue/Current Charges	113,900	113,900	101,677	89%	127,676	(25,999)	-20%
<b>640 SEWER OPERATION</b>	<b>5,798,669</b>	<b>5,798,669</b>	<b>3,966,892</b>	<b>68%</b>	<b>4,243,808</b>	<b>(276,916)</b>	<b>-7%</b>
<b>641 SEWER EXPANSION</b>							
Interest Income	176,887	176,887	95,109	54%	71,502	23,607	33%
Connection Fees	1,125,000	1,125,000	459,115	41%	1,175,520	(716,405)	-61%
Other	-	-	594	n/a	594	-	n/a
<b>641 SEWER EXPANSION</b>	<b>1,301,887</b>	<b>1,301,887</b>	<b>554,818</b>	<b>43%</b>	<b>1,247,616</b>	<b>(692,798)</b>	<b>-56%</b>
<b>642 SEWER RATE STABILIZATION</b>	<b>123,378</b>	<b>123,378</b>	<b>270,921</b>	<b>220%</b>	<b>349,242</b>	<b>(78,321)</b>	<b>-22%</b>
<b>643 SEWER-CAPITAL PROJECT</b>	<b>608,429</b>	<b>608,429</b>	<b>308,274</b>	<b>51%</b>	<b>419,168</b>	<b>(110,894)</b>	<b>-26%</b>
<b>TOTAL SEWER FUNDS</b>	<b>7,832,363</b>	<b>7,832,363</b>	<b>5,100,905</b>	<b>65%</b>	<b>6,259,834</b>	<b>(1,158,929)</b>	<b>-19%</b>
<b>650 WATER OPERATION</b>							
Water Sales	5,855,915	5,855,915	4,417,578	75%	4,383,896	33,682	1%
Meter Install & Service	48,000	48,000	34,722	72%	26,782	7,940	30%
Transfers-In, and Interest Income	384,673	384,673	197,893	51%	207,660	(9,767)	-5%
Other Revenue/Current Charges	171,770	171,770	258,439	150%	218,549	39,890	18%
<b>650 WATER OPERATION</b>	<b>6,460,358</b>	<b>6,460,358</b>	<b>4,908,632</b>	<b>76%</b>	<b>4,836,887</b>	<b>71,745</b>	<b>1%</b>
<b>651 WATER EXPANSION</b>							
Interest Income/Other Revenue/Transfer	480,602	1,980,602	244,560	12%	15,968	228,592	1432%
Water Connection Fees	387,000	387,000	117,395	30%	104,334	13,061	13%
<b>651 WATER EXPANSION</b>	<b>867,602</b>	<b>2,367,602</b>	<b>361,955</b>	<b>15%</b>	<b>120,302</b>	<b>241,653</b>	<b>201%</b>
<b>652 Water Rate Stabilization</b>	<b>32,844</b>	<b>32,844</b>	<b>13,754</b>	<b>42%</b>	<b>9,817</b>	<b>3,937</b>	<b>40%</b>
<b>653 Water Capital Project</b>	<b>1,207,662</b>	<b>1,207,662</b>	<b>665,037</b>	<b>55%</b>	<b>934,509</b>	<b>(269,472)</b>	<b>-29%</b>
<b>TOTAL WATER FUNDS</b>	<b>8,568,466</b>	<b>10,068,466</b>	<b>5,949,378</b>	<b>59%</b>	<b>5,901,515</b>	<b>47,863</b>	<b>1%</b>
<b>TOTAL ENTERPRISE FUNDS</b>	<b>16,400,829</b>	<b>17,900,829</b>	<b>11,050,283</b>	<b>62%</b>	<b>12,161,349</b>	<b>(1,111,066)</b>	<b>-9%</b>
<b>INTERNAL SERVICE FUNDS</b>							
<b>730 INFORMATION SERVICES</b>	<b>381,190</b>	<b>381,190</b>	<b>285,891</b>	<b>75%</b>	<b>502,423</b>	<b>(216,532)</b>	<b>-43%</b>
<b>740 BUILDING MAINTENANCE SERVICES</b>	<b>837,139</b>	<b>837,139</b>	<b>627,856</b>	<b>75%</b>	<b>578,092</b>	<b>49,764</b>	<b>9%</b>
<b>745 CIP ADMINISTRATION</b>	<b>1,308,226</b>	<b>1,308,226</b>	<b>900,220</b>	<b>69%</b>	<b>736,503</b>	<b>163,717</b>	<b>22%</b>
<b>760 UNEMPLOYMENT INSURANCE</b>	<b>970</b>	<b>970</b>	<b>-</b>	<b>n/a</b>	<b>-</b>	<b>-</b>	<b>n/a</b>
<b>770 WORKERS COMPENSATION</b>	<b>399,907</b>	<b>399,907</b>	<b>326,538</b>	<b>82%</b>	<b>310,074</b>	<b>16,464</b>	<b>5%</b>
<b>790 EQUIPMENT REPLACEMENT</b>	<b>511,371</b>	<b>511,371</b>	<b>398,414</b>	<b>78%</b>	<b>335,147</b>	<b>63,267</b>	<b>19%</b>
<b>793 CORPORATION YARD COMMISSION</b>	<b>233,033</b>	<b>233,033</b>	<b>955,809</b>	<b>410%</b>	<b>388,882</b>	<b>566,927</b>	<b>146%</b>
<b>795 GENERAL LIABILITY INSURANCE</b>	<b>387,806</b>	<b>387,806</b>	<b>259,050</b>	<b>67%</b>	<b>292,822</b>	<b>(33,772)</b>	<b>-12%</b>
<b>TOTAL INTERNAL SERVICE FUNDS</b>	<b>4,059,642</b>	<b>4,059,642</b>	<b>3,753,778</b>	<b>92%</b>	<b>3,143,943</b>	<b>609,835</b>	<b>19%</b>





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FUND REVENUE SOURCE	ADOPTED BUDGET	AMENDED BUDGET	CURRENT YTD ACTUAL	% OF BUDGET	PRIOR YTD	INCR (DECR) FROM PRIOR YTD	% OF BUDGET
<b>AGENCY FUNDS</b>							
841 M.H. BUS.RANCH A.D. I	135,458	135,458	257,711	190%	372,796	(115,085)	-31%
842 M.H. BUS.RANCH A.D. II	99,679	99,679	17,011	17%	45,862	(28,851)	-63%
843 M.H. BUS.RANCH 1998	939,155	939,155	462,012	49%	465,206	(3,194)	-1%
845 MADRONE BP-TAX EXEMPT	846,721	846,721	384,388	45%	491,985	(107,597)	-22%
846 MADRONE BP-TAXABLE	184,234	184,234	121,875	66%	81,340	40,535	50%
848 TENNANT AVE.BUS.PK A.D.	332,553	332,553	35,718	11%	260,184	(224,466)	-86%
881 POLICE DONATION TRUST FUND	1,371	1,371	332	24%	305	27	9%
<b>TOTAL AGENCY FUNDS</b>	<b>2,539,171</b>	<b>2,539,171</b>	<b>1,279,047</b>	<b>50%</b>	<b>1,717,678</b>	<b>(438,631)</b>	<b>-26%</b>
<b>TOTAL FOR ALL FUNDS</b>	<b>65,271,494</b>	<b>66,786,494</b>	<b>44,823,305</b>	<b>67%</b>	<b>44,263,232</b>	<b>(195,092)</b>	<b>0%</b>





City of Morgan Hill  
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FUND NO.	FUND/ACTIVITY	THIS MONTH ACTUAL EXPENSES	ADOPTED BUDGET	AMENDED BUDGET	YTD EXPENSES	OUTSTANDING ENCUMBRANCE	TOTAL ALLOCATED	PERCENT OF TOTAL TO BUDGET
<b>010 GENERAL FUND</b>								
<b>I. GENERAL GOVERNMENT</b>								
<b>COUNCIL AND MISCELLANEOUS GOVT.</b>								
	City Council	11,348	236,417	242,371	134,722	1,119	135,841	56%
	Community Promotions	<u>1,982</u>	<u>40,604</u>	<u>47,303</u>	<u>28,605</u>	<u>6,707</u>	<u>35,312</u>	<u>75%</u>
	<b>COUNCIL AND MISCELLANEOUS GO</b>	<b>13,330</b>	<b>277,021</b>	<b>289,674</b>	<b>163,327</b>	<b>7,826</b>	<b>171,153</b>	<b>59%</b>
	<b>CITY ATTORNEY</b>	<b>136,586</b>	<b>668,556</b>	<b>751,176</b>	<b>615,062</b>	<b>-</b>	<b>615,062</b>	<b>82%</b>
<b>CITY MANAGER</b>								
	City Manager	26,080	393,276	446,628	293,988	-	293,988	66%
	Cable Television	667	46,755	61,366	53,048	6,110	59,158	96%
	Communications & Marketing	<u>7,335</u>	<u>116,982</u>	<u>116,982</u>	<u>70,540</u>	<u>10,373</u>	<u>80,913</u>	<u>69%</u>
	<b>CITY MANAGER</b>	<b>34,082</b>	<b>557,013</b>	<b>624,976</b>	<b>417,576</b>	<b>16,483</b>	<b>434,059</b>	<b>69%</b>
<b>RECREATION</b>								
	Recreation	29,793	479,220	486,520	321,431	40,826	362,257	74%
	Community & Cultural Center	30,253	684,196	710,546	222,469	40,547	263,016	37%
	Building Maintenance (CCC)	<u>30,183</u>	<u>205,115</u>	<u>220,115</u>	<u>111,743</u>	<u>5,472</u>	<u>117,215</u>	<u>53%</u>
	<b>RECREATION</b>	<b>90,229</b>	<b>1,368,531</b>	<b>1,417,181</b>	<b>655,643</b>	<b>86,845</b>	<b>742,488</b>	<b>52%</b>
<b>HUMAN RESOURCES</b>								
	Human Resources	34,534	606,543	607,257	414,151	1,379	415,530	68%
	Volunteer Programs	<u>1,552</u>	<u>38,193</u>	<u>38,193</u>	<u>20,185</u>	<u>-</u>	<u>20,185</u>	<u>53%</u>
	<b>HUMAN RESOURCES</b>	<b>36,086</b>	<b>644,736</b>	<b>645,450</b>	<b>434,336</b>	<b>1,379</b>	<b>435,715</b>	<b>68%</b>
<b>CITY CLERK</b>								
	City Clerk	15,233	373,823	404,150	184,862	861	185,723	46%
	Elections	<u>2,329</u>	<u>65,811</u>	<u>65,811</u>	<u>40,099</u>	<u>-</u>	<u>40,099</u>	<u>61%</u>
	<b>CITY CLERK</b>	<b>17,562</b>	<b>439,634</b>	<b>469,961</b>	<b>224,961</b>	<b>861</b>	<b>225,822</b>	<b>48%</b>
	<b>FINANCE</b>	<b>67,916</b>	<b>1,075,090</b>	<b>1,094,207</b>	<b>666,320</b>	<b>299</b>	<b>666,619</b>	<b>61%</b>
	<b>MEDICAL SERVICES</b>	<b>-</b>	<b>120,000</b>	<b>120,000</b>	<b>50,000</b>	<b>-</b>	<b>50,000</b>	<b>42%</b>
	<b>TOTAL GENERAL GOVERNMENT</b>	<b>395,791</b>	<b>5,150,581</b>	<b>5,412,625</b>	<b>3,227,225</b>	<b>113,693</b>	<b>3,340,918</b>	<b>62%</b>
<b>II. PUBLIC SAFETY</b>								
<b>POLICE</b>								
	PD Administration	34,467	596,573	596,573	323,521		323,521	54%
	Patrol	226,982	3,131,616	3,138,478	2,267,857	1,230	2,269,087	72%
	Support Services	67,235	867,088	868,069	647,912	13,983	661,895	76%
	Emergency Services/Haz Mat	2,333	89,549	89,549	41,706	-	41,706	47%
	Special Operations	63,345	792,804	792,804	621,844	-	621,844	78%
	Animal Control	6,258	71,919	71,919	50,410	30,524	80,934	113%
	Dispatch Services	<u>55,355</u>	<u>821,421</u>	<u>885,913</u>	<u>509,033</u>	<u>-</u>	<u>509,033</u>	<u>57%</u>
	<b>POLICE</b>	<b>455,975</b>	<b>6,370,970</b>	<b>6,443,305</b>	<b>4,462,283</b>	<b>45,737</b>	<b>4,508,020</b>	<b>70%</b>
	<b>FIRE</b>	<b>301,995</b>	<b>3,623,938</b>	<b>3,623,938</b>	<b>2,717,953</b>	<b>-</b>	<b>2,717,953</b>	<b>75%</b>
	<b>TOTAL PUBLIC SAFETY</b>	<b>757,970</b>	<b>9,994,908</b>	<b>10,067,243</b>	<b>7,180,236</b>	<b>45,737</b>	<b>7,225,973</b>	<b>72%</b>
<b>III. COMMUNITY IMPROVEMENT</b>								
	<b>PARK MAINTENANCE</b>	<b>56,868</b>	<b>826,483</b>	<b>879,230</b>	<b>614,216</b>	<b>19,205</b>	<b>633,421</b>	<b>72%</b>
	<b>TOTAL COMMUNITY IMPROVEMENT</b>	<b>56,868</b>	<b>826,483</b>	<b>879,230</b>	<b>614,216</b>	<b>19,205</b>	<b>633,421</b>	<b>72%</b>





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FUND NO.	FUND/ACTIVITY	THIS MONTH ACTUAL EXPENSES	ADOPTED BUDGET	AMENDED BUDGET	YTD EXPENSES	OUTSTANDING ENCUMBRANCE	TOTAL ALLOCATED	PERCENT OF TOTAL TO BUDGET
<b>IV. TRANSFERS</b>								
	Street Maintenance		377,000	377,000	188,500	-	188,500	50%
	Community Center		100,000	100,000	100,000	-	100,000	100%
	General Plan Update	5,000	60,000	60,000	45,000	-	45,000	75%
<b>TOTAL TRANSFERS</b>		<b>5,000</b>	<b>537,000</b>	<b>537,000</b>	<b>333,500</b>	<b>-</b>	<b>333,500</b>	<b>62%</b>
<b>TOTAL GENERAL FUND</b>		<b>1,215,629</b>	<b>16,508,972</b>	<b>16,896,098</b>	<b>11,355,177</b>	<b>178,635</b>	<b>11,533,812</b>	<b>68%</b>
<b>SPECIAL REVENUE FUNDS</b>								
<b>202 STREET MAINTENANCE</b>								
	Street Maintenance/Traffic	103,407	1,705,475	1,835,629	1,020,499	156,855	1,177,354	64%
	Congestion Management	3,441	79,820	79,820	43,088	-	43,088	54%
	Street CIP	<u>29,558</u>	<u>120,097</u>	<u>1,398,774</u>	<u>232,678</u>	<u>713,016</u>	<u>945,694</u>	<u>68%</u>
<b>202 STREET MAINTENANCE</b>		<b>136,406</b>	<b>1,905,392</b>	<b>3,314,223</b>	<b>1,296,265</b>	<b>869,871</b>	<b>2,166,136</b>	<b>65%</b>
<b>204/205</b>	<b>PUBLIC SAFETY/SUPP.LAW</b>	<b>81,313</b>	<b>315,538</b>	<b>315,538</b>	<b>247,903</b>		<b>247,903</b>	<b>79%</b>
<b>206 COMMUNITY DEVELOPMENT FUND</b>								
	Planning	87,409	1,146,916	1,422,356	854,059	185,856	1,039,915	73%
	Building	62,253	1,040,589	1,129,357	652,581	75,982	728,563	65%
	PW-Engineering	<u>80,807</u>	<u>1,120,346</u>	<u>1,160,252</u>	<u>719,627</u>	<u>83,956</u>	<u>803,583</u>	<u>69%</u>
<b>206 COMMUNITY DEVELOPMENT FUND</b>		<b>230,469</b>	<b>3,307,851</b>	<b>3,711,965</b>	<b>2,226,267</b>	<b>345,794</b>	<b>2,572,061</b>	<b>69%</b>
<b>207</b>	<b>GENERAL PLAN UPDATE</b>	<b>761</b>	<b>162,996</b>	<b>203,959</b>	<b>8,825</b>	<b>159,263</b>	<b>168,088</b>	<b>82%</b>
<b>210</b>	<b>COMMUNITY CENTER</b>	<b>390,249</b>	<b>520,332</b>	<b>520,332</b>	<b>390,249</b>	<b>-</b>	<b>390,249</b>	<b>75%</b>
<b>215/216</b>	<b>CDBG</b>	<b>-</b>	<b>231,306</b>	<b>232,806</b>	<b>4,893</b>	<b>32,407</b>	<b>37,300</b>	<b>16%</b>
<b>220</b>	<b>MUSEUM RENTAL</b>	<b>141</b>	<b>3,069</b>	<b>3,069</b>	<b>2,281</b>	<b>-</b>	<b>2,281</b>	<b>74%</b>
<b>225</b>	<b>ASSET SEIZURE</b>		<b>34,060</b>	<b>34,060</b>	<b>20,000</b>	<b>-</b>	<b>20,000</b>	<b>59%</b>
<b>226</b>	<b>OES/FEMA</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>n/a</b>
<b>229</b>	<b>LIGHTING AND LANDSCAPE</b>	<b>15,610</b>	<b>138,672</b>	<b>139,639</b>	<b>103,179</b>	<b>18,392</b>	<b>121,571</b>	<b>87%</b>
<b>232</b>	<b>ENVIRONMENT PROGRAMS</b>	<b>19,942</b>	<b>318,170</b>	<b>384,242</b>	<b>205,780</b>	<b>52,779</b>	<b>258,559</b>	<b>67%</b>
<b>234</b>	<b>MOBILE HOME PARK</b>	<b>13,847</b>	<b>70,335</b>	<b>70,335</b>	<b>37,235</b>	<b>-</b>	<b>37,235</b>	<b>53%</b>
<b>236</b>	<b>HOUSING MITIGATION FUND</b>	<b>-</b>	<b>1,032,119</b>	<b>1,032,119</b>	<b>11,875</b>	<b>8,625</b>	<b>20,500</b>	<b>2%</b>
<b>240</b>	<b>EMPLOYEE ASSISTANCE</b>	<b>-</b>	<b>40,000</b>	<b>40,000</b>	<b>41,978</b>	<b>-</b>	<b>41,978</b>	<b>105%</b>
<b>TOTAL SPECIAL REVENUE FUNDS</b>		<b>888,738</b>	<b>8,079,840</b>	<b>10,002,287</b>	<b>4,596,730</b>	<b>1,487,131</b>	<b>6,083,861</b>	<b>61%</b>
<b>CAPITAL PROJECT FUNDS</b>								
<b>301</b>	<b>PARK DEVELOPMENT</b>	<b>3,011</b>	<b>2,856,587</b>	<b>3,215,379</b>	<b>117,688</b>	<b>48,549</b>	<b>166,237</b>	<b>5%</b>
<b>302</b>	<b>PARK MAINTENANCE</b>	<b>7,523</b>	<b>165,000</b>	<b>170,422</b>	<b>78,809</b>	<b>-</b>	<b>78,809</b>	<b>46%</b>
<b>303</b>	<b>LOCAL DRAINAGE</b>	<b>1,524</b>	<b>1,866,589</b>	<b>2,094,305</b>	<b>8,211</b>	<b>-</b>	<b>8,211</b>	<b>0%</b>
<b>304</b>	<b>LOCAL DRAIN. NON-AB1600</b>	<b>8,262</b>	<b>161,727</b>	<b>396,685</b>	<b>81,267</b>	<b>-</b>	<b>81,267</b>	<b>20%</b>
<b>309</b>	<b>TRAFFIC MITIGATION</b>	<b>146,355</b>	<b>183,541</b>	<b>1,526,406</b>	<b>615,987</b>	<b>548,317</b>	<b>1,164,304</b>	<b>76%</b>
<b>311</b>	<b>POLICE MITIGATION</b>	<b>15,501</b>	<b>1,058,142</b>	<b>1,058,142</b>	<b>79,548</b>	<b>-</b>	<b>79,548</b>	<b>8%</b>
<b>313</b>	<b>FIRE MITIGATION</b>	<b>119</b>	<b>1,428</b>	<b>151,428</b>	<b>151,727</b>	<b>-</b>	<b>151,727</b>	<b>100%</b>
<b>317</b>	<b>RDA BUSINESS ASSISTANCE</b>	<b>759,286</b>	<b>19,353,409</b>	<b>32,464,906</b>	<b>14,996,071</b>	<b>2,015,113</b>	<b>17,011,184</b>	<b>52%</b>
<b>327/328</b>	<b>RDA HOUSING</b>	<b>156,238</b>	<b>6,313,976</b>	<b>6,888,925</b>	<b>1,888,974</b>	<b>74,287</b>	<b>1,963,261</b>	<b>28%</b>
<b>346</b>	<b>PUBLIC FAC.NON AB1600</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>n/a</b>
<b>347</b>	<b>PUBLIC FACILITIES</b>	<b>38,453</b>	<b>56,412</b>	<b>1,155,026</b>	<b>289,518</b>	<b>889,207</b>	<b>1,178,725</b>	<b>102%</b>
<b>348</b>	<b>LIBRARY IMPACT</b>	<b>17</b>	<b>208</b>	<b>208</b>	<b>812</b>	<b>-</b>	<b>812</b>	<b>390%</b>
<b>350</b>	<b>UNDERGROUNDING</b>	<b>34</b>	<b>730,404</b>	<b>730,404</b>	<b>303</b>	<b>-</b>	<b>303</b>	<b>0%</b>
<b>TOTAL CAPITAL PROJECTS FUNDS</b>		<b>1,136,323</b>	<b>32,747,423</b>	<b>49,852,236</b>	<b>18,308,915</b>	<b>3,575,473</b>	<b>21,884,388</b>	<b>44%</b>





City of Morgan Hill  
Year to Date Expenses - Fiscal Year 2002/03  
For the Month of March 2003  
75% of Year Completed

FUND NO.	FUND/ACTIVITY	THIS MONTH ACTUAL EXPENSES	ADOPTED BUDGET	AMENDED BUDGET	YTD EXPENSES	OUTSTANDING ENCUMBRANCE	TOTAL ALLOCATED	PERCENT OF TOTAL TO BUDGET
<b>DEBT SERVICE FUNDS</b>								
527	HIDDEN CREEK A.D.	-	-	-	-	-	-	n/a
536	ENCINO HILLS A.D.	-	-	-	500	-	500	n/a
539	MORGAN HILL BUS. PARK A.D.	-	-	-	562	-	562	n/a
542	SUTTER BUS. PARK A.D.	-	-	-	-	-	-	n/a
545	COCHRANE BUS. PARK A.D.	764	139,309	448,309	475,983	-	475,983	106%
551	JOLEEN WAY A.D.	7,735	42,569	42,569	40,823	-	40,823	96%
<b>TOTAL DEBT SERVICE FUNDS</b>		<b>8,499</b>	<b>181,878</b>	<b>490,878</b>	<b>517,868</b>	<b>-</b>	<b>517,868</b>	<b>105%</b>
<b>ENTERPRISE FUNDS</b>								
<b>SEWER</b>								
640	SEWER OPERATION	333,336	6,875,234	6,929,378	4,583,354	60,534	4,643,888	67%
641	CAPITAL EXPANSION	5,868	4,006,874	4,536,874	1,654,333	11,072	1,665,405	37%
642	SEWER RATE STABILIZATION	183	2,190	2,190	1,643	-	1,643	75%
643	SEWER-CAPITAL PROJECTS	<u>107,203</u>	<u>1,822,627</u>	<u>3,156,637</u>	<u>990,080</u>	<u>111,144</u>	<u>1,101,224</u>	<u>35%</u>
<b>TOTAL SEWER FUND(S)</b>		<b>446,590</b>	<b>12,706,925</b>	<b>14,625,079</b>	<b>7,229,410</b>	<b>182,750</b>	<b>7,412,160</b>	<b>51%</b>
<b>WATER</b>								
	Water Operations Division	324,450	6,948,657	8,648,694	4,281,785	246,063	4,527,848	52%
	Meter Reading/Repair	48,880	616,878	688,718	429,544	144,465	574,009	83%
	Utility Billing	30,437	347,753	458,755	307,864	41,689	349,553	76%
	Water Conservation	<u>105</u>	<u>11,320</u>	<u>11,320</u>	<u>2,750</u>	<u>-</u>	<u>2,750</u>	<u>24%</u>
650	WATER OPERATIONS	403,872	7,924,608	9,807,487	5,021,943	432,217	5,454,160	56%
651	CAPITAL EXPANSION	57,847	900,234	3,123,047	921,193	354,779	1,275,972	41%
652	WATER RATE STABILIZATION	42	509	509	382	-	382	75%
653	WATER-CAPITAL PROJECTS	<u>139,263</u>	<u>810,955</u>	<u>4,622,731</u>	<u>1,368,501</u>	<u>454,820</u>	<u>1,823,321</u>	<u>39%</u>
<b>TOTAL WATER FUND(S)</b>		<b>601,024</b>	<b>9,636,306</b>	<b>17,553,774</b>	<b>7,312,019</b>	<b>1,241,816</b>	<b>8,553,835</b>	<b>49%</b>
<b>TOTAL ENTERPRISE FUNDS</b>		<b>1,047,614</b>	<b>22,343,231</b>	<b>32,178,853</b>	<b>14,541,429</b>	<b>1,424,566</b>	<b>15,965,995</b>	<b>50%</b>
<b>INTERNAL SERVICE FUNDS</b>								
730	INFORMATION SERVICES	51,122	586,190	653,455	315,724	52,625	368,349	56%
740	BUILDING MAINTENANCE	51,193	588,128	659,440	361,882	25,711	387,593	59%
745	CIP ENGINEERING	79,742	1,308,227	1,374,356	900,220	125,863	1,026,083	75%
760	UNEMPLOYMENT	-	25,000	50,000	24,690	-	24,690	49%
770	WORKERS COMPENSATION	40,236	482,200	539,025	468,688	40,150	508,838	94%
790	EQUIPMENT REPLACEMENT	136	186,472	186,472	18,627	56,715	75,342	40%
793	CORP YARD COMMISSION	113,035	227,600	337,970	778,271	14,530	792,801	235%
795	GEN. LIABILITY INSURANCE	863	330,600	330,600	422,705	-	422,705	128%
<b>TOTAL INTERNAL SERVICE FUNDS</b>		<b>336,327</b>	<b>3,734,417</b>	<b>4,131,318</b>	<b>3,290,807</b>	<b>315,594</b>	<b>3,606,401</b>	<b>87%</b>
<b>AGENCY FUNDS</b>								
841	MORGAN HILL BUS RANCH I	(1,350)	730,155	730,155	727,100	-	727,100	100%
842	MORGAN HILL BUS RANCH II	3,370	89,995	213,995	210,900	-	210,900	99%
843	MORGAN HILL BUS RANCH 98	900	883,336	1,105,336	1,103,316	-	1,103,316	100%
845	MADRONE BP-TAX EXEMPT	1,160	1,084,479	1,105,479	895,448	-	895,448	81%
846	MADRONE BP-TAXABLE	673	183,851	276,851	194,372	-	194,372	70%
848	TENNANT AVE BUS PARK AD	-	-	-	836	-	836	n/a
881	POLICE DONATION TRUST	-	-	-	-	-	-	n/a
<b>TOTAL AGENCY FUNDS</b>		<b>4,753</b>	<b>2,971,816</b>	<b>3,431,816</b>	<b>3,131,972</b>	<b>-</b>	<b>3,131,972</b>	<b>91%</b>
<b>REPORT TOTAL</b>		<b>4,637,883</b>	<b>86,567,577</b>	<b>116,983,486</b>	<b>55,742,898</b>	<b>6,981,399</b>	<b>62,724,297</b>	<b>54%</b>





City of Morgan Hill  
Enterprise Funds Report - Fiscal Year 2002/03  
For the Month of March 2003  
75% of Year Completed

YTD INCOME STATEMENT FOR CURRENT AND PRIOR YEAR

	Sewer Operations				Water Operations			
	Budget	YTD	% of Budget	Prior YTD	Budget	YTD	% of Budget	Prior YTD
<b>Operations</b>								
<b>Revenues</b>								
Service Charges	\$ 5,389,650	\$ 3,783,950	70%	\$ 3,983,103	\$ 5,855,915	\$ 4,417,578	75%	\$ 4,383,896
Meter Install & Service					48,000	34,722	72%	26,782
Other	113,900	101,677	89%	127,676	155,566	258,439	166%	218,549
<b>Total Operating Revenues</b>	<b>5,503,550</b>	<b>3,885,627</b>	<b>71%</b>	<b>4,110,779</b>	<b>6,059,481</b>	<b>4,710,739</b>	<b>78%</b>	<b>4,629,227</b>
<b>Expenses</b>								
Operations	3,979,047	2,737,676	69%	2,623,801	4,523,153	2,945,240	65%	2,441,116
Meter Reading/Repair					688,718	429,544	62%	292,874
Utility Billing/Water Conservation					470,075	310,614	66%	217,527
<b>Total Operating Expenses</b>	<b>3,979,047</b>	<b>2,737,676</b>	<b>69%</b>	<b>2,623,801</b>	<b>5,681,946</b>	<b>3,685,398</b>	<b>65%</b>	<b>2,951,517</b>
<b>Operating Income (Loss)</b>	<b>1,524,503</b>	<b>1,147,951</b>		<b>1,486,978</b>	<b>377,535</b>	<b>1,025,341</b>		<b>1,677,710</b>
<b>Nonoperating revenue (expense)</b>								
Interest Income	295,119	81,265	28%	133,029	227,000	67,485	30%	76,003
Interest Expense/Debt Services	(1,403,954)	(667,145)	48%	(963,222)	(337,720)	(164,273)	49%	(169,344)
Principal Expense/Debt Services	(655,000)	(635,000)	97%	(655,000)	(210,320)	(29,147)	14%	(27,176)
<b>Total Nonoperating revenue (expense)</b>	<b>(1,763,835)</b>	<b>(1,220,880)</b>		<b>(1,485,193)</b>	<b>(321,040)</b>	<b>(125,935)</b>		<b>(120,517)</b>
Income before operating xfers	(239,332)	(72,929)		1,785	56,495	899,406		1,557,193
Operating transfers in	-	-		-	173,877	130,408	75%	131,657
Operating transfers (out)	(891,377)	(543,533)	61%	(637,907)	(3,577,500)	(1,143,125)	32%	(1,173,750)
<b>Net Income (Loss)</b>	<b>\$ (1,130,709)</b>	<b>\$ (616,462)</b>		<b>\$ (636,122)</b>	<b>\$ (3,347,128)</b>	<b>\$ (113,311)</b>		<b>\$ 515,100</b>





**City of Morgan Hill**  
**Balance Sheets - Water and Sewer Funds**  
**March 31, 2003**  
**75% of Year Complete**

	<b>Sewer Operations (640)</b>	<b>Sewer Expansion Stabilization Capital Projects (641-643)</b>	<b>Water Operations (650)</b>	<b>Water Expansion Stabilization Capital Projects (651-653)</b>
<b>ASSETS</b>				
<b>Cash and investments:</b>				
<b>Unrestricted</b>	4,600,029	6,715,056	3,069,406	4,343,673
<b>Restricted <sup>1</sup></b>	1,862,682	4,781,906	391,194	214,328
<b>Accounts Receivable</b>		6,368		13,476
<b>Utility Receivables</b>	736,041		779,232	
<b>Less Allowance for Doubtful Accounts</b>	(15,230)		(55,868)	
<b>Notes Receivable <sup>2</sup></b>				
<b>Fixed Assets <sup>3</sup></b>	33,230,110	7,321,152	24,217,670	5,644,680
<b>#REF!</b>	#REF!			
<b>Total Assets</b>	#REF!	18,824,482	28,401,634	10,216,157
<b>LIABILITIES</b>				
<b>Accounts Payable and Accrued Liabilities</b>	386,803	204,954	66,259	
<b>Deposits for Water Services</b>			39,336	
<b>Deferred Revenue <sup>4</sup></b>				
<b>Bonds Payable</b>	25,390,000		6,205,194	
<b>Discount on Bonds and Other Liabilities</b>	(2,099,740)		(1,016,593)	
<b>Accrued Vacation and Comp Time</b>	40,560		64,885	
<b>Total liabilities</b>	23,717,623	204,954	5,359,081	0
<b>FUND EQUITY</b>				
<b>Contributed Capital</b>	7,155,284		13,742,872	
<b>Retained Earnings</b>				
<b>Reserved for:</b>				
<b>Noncurrent water/sewer assets &amp; debt</b>	9,902,747	7,321,152	19,200,312	5,644,680
<b>Encumbrances</b>	60,534	122,216	432,217	809,599
<b>Notes Receivable</b>		0		
<b>Restricted Cash</b>	1,862,682		391,194	
<b>Total Reserved Retained Earnings</b>	11,825,963	7,443,368	20,023,723	6,454,279
<b>Unreserved Retained Earnings</b>	#REF!	11,176,160	3,018,830	3,761,878
<b>Total Fund Equity</b>	#REF!	18,619,528	23,042,553	10,216,157
<b>Total Liabilities and Fund Equity</b>	#REF!	18,824,482	28,401,634	10,216,157

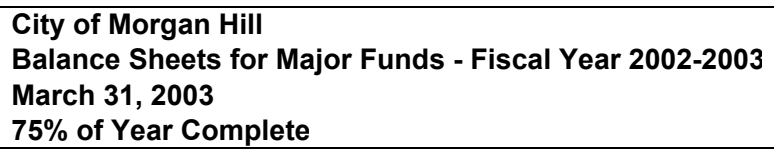
<sup>1</sup> Restricted for Bond Reserve requirements and capital expansion.

<sup>2</sup> Includes Note for Sewer Financing Agreements.

<sup>3</sup> Includes Water and Sewer infrastructure and the City's share of the Wastewater treatment plant.

<sup>4</sup> Includes the deferred payment portion of the loans noted above.





<sup>1</sup> Restricted for Petty Cash use, Bond Reserve requirements and sewer and water capital expansion.  
<sup>2</sup> Includes Housing Rehab loans, Financing Agreements for Public Works Fees and loans for several housing and Agency projects.  
<sup>3</sup> Includes Water and Sewer infrastructure, the City's share of the Wastewater treatment plant and RDA properties held for resale.  
<sup>4</sup> Includes the deferred payment portion of the loans noted above.  
<sup>5</sup> Designated for economic uncertainty, emergencies, and Fire Master Plan implementation

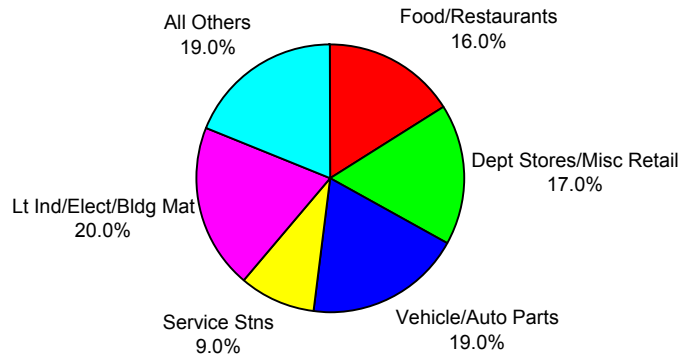




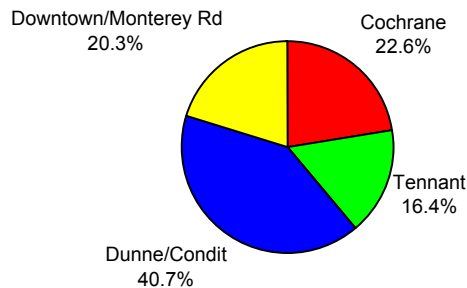
**City of Morgan Hill**  
**Sales Tax Comparison - Fiscal Year 2002/03**  
**For the Month of March 2003**  
**75% of Year Complete**

Month	Amount Collected for Month for Fiscal Year			Amount Collected YTD for Fiscal Year			Comparison of YTD for fiscal years	
	02/03	01/02	00/01	02/03	01/02	00/01	02/03 to 01/02	02/03 to 00/01
July	\$367,600	\$377,700	\$306,000	\$367,600	\$377,700	\$306,000	(10,100)	61,600
August	\$447,000	\$503,600	\$408,000	\$814,600	\$881,300	\$714,000	(66,700)	100,600
September	\$361,932	\$437,056	\$584,766	\$1,176,532	\$1,318,356	\$1,298,766	(141,824)	(122,234)
October	\$354,915	\$339,000	\$319,200	\$1,531,447	\$1,657,356	\$1,617,966	(125,909)	(86,519)
November	\$474,800	\$452,000	\$425,600	\$2,006,247	\$2,109,356	\$2,043,566	(103,109)	(37,319)
December	\$384,154	\$538,465	\$524,333	\$2,390,401	\$2,647,821	\$2,567,899	(257,420)	(177,498)
January	\$368,600	\$393,900	\$337,700	\$2,759,001	\$3,041,721	\$2,905,599	(282,720)	(146,598)
February	\$487,195	\$466,068	\$450,200	\$3,246,196	\$3,507,789	\$3,355,799	(261,593)	(109,603)
March	\$225,908	\$351,548	\$607,260	\$3,472,104	\$3,859,337	\$3,963,059	(387,233)	(490,955)
April		\$341,042	\$324,700		\$4,200,379	\$4,287,759		
May		\$461,500	\$432,900		\$4,661,879	\$4,720,659		
June		\$275,116	\$811,473		\$4,936,995	\$5,532,132		
<b>Year To Date Totals</b>				<b>\$3,472,104</b>	<b>\$4,936,995</b>	<b>\$5,532,132</b>		
Sales Tax Budget for Year				\$5,330,000	\$5,300,000	\$4,462,817		
<b>Percent of Budget</b>				<b>65%</b>	<b>93%</b>	<b>124%</b>		
<b>Percent of increase(decrease)</b>							<b>-10%</b>	<b>-12%</b>

**Sales Tax Distribution  
by Business Segment  
First Quarter 2002**



**Sales Distribution  
by Area  
First Quarter 2002**





**GRANT REPORT**

**FY 2002/2003**

**March 31, 2003**

<u>Grant Name</u>	<u>Federal CFDA#</u>	<u>Pass Through #</u>	<u>Responsible Contact</u>	<u>Reporting Deadlines</u>	<u>Total FY 02/03 Grant</u>	<u>Current Year Expenditures</u>
CDBG	14.218	N/A	Finance	Quarterly	175,046	16,046
Emergency Management Assistance	83.534	EMF-98-PA-9002	Police	Annually	3,100	0
COPS Small Communities Grant Program	16.710	99UMWX3287	Police	Quarterly	225,000	105,323
Local Law Enforcement Block Grant 2001	16.592	00LBBX3061	Police	Semi-annually Dec 31 & Jun 30	10,982	8,499
Local Law Enforcement Block Grant 2002	16.592	00LBBX3061	Police	Semi-annually Dec 31 & Jun 30	11,189	7,339
COPS in School Grant	16.710	2002SHWX0569	Police	Quarterly	125,000	0
Local Law Enforcement Block Grant 2003	16.592	98LBVX2134	Police	Semi-annually Dec 31 & Jun 30	26,032	0
California Law Enforcement Technology Equipment Program	N/A		Police	None	45,000	16,299
California Law Enforcement Equipment Program-2	N/A		Police	None	40,663	45,000
California Law Enforcement Equipment Program-3	N/A		Police	None	20,765	0
Supplemental Law Enforcement Funding	N/A		Police	Annually Jun 30	100,000	4,231
Transportation Fund for Clean Air Grant	N/A		Public Works	Quarterly	17,842	17,842
Bulletproof Vest Program	N/A		Police	None	1,919	1,919
VTA-TDA Funds	N/A		Public Works	Quarterly	50,000	0



**GRANT REPORT****FY 2002/2003****March 31, 2003**

<u>Grant Name</u>	<u>Federal CFDA#</u>	<u>Pass Through #</u>	<u>Responsible Contact</u>	<u>Reporting Deadlines</u>	<u>Total FY 02/03 Grant</u>	<u>Current Year Expenditures</u>
P-TAP Funds	N/A		Public Works	None	16,718	0
CDBG-E. Central Ave. Upgrade	N/A		Public Works	Quarterly	64,731	0
Safe Neighborhood Parks-Per Capita Grant	N/A		Public Works	None	300,000	0
Safe Neighborhood Parks- RZH Block Grant	N/A		Public Works	None	96,375	0
MTC-TLC Grant/Transit Village	N/A		Planning	None	50,000	40,215
Revenue Aligned Budget Act (RABA)	N/A		Public Works	None	63,854	0
Caltrans	N/A		Public Works	None	460,000	0
Medical Reserve Corps Grant	N/A		Police	None	78,490	0
HCD Code Enforcement Grant	N/A		Building	None	300,000	0





## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: April 16, 2003***

### **RESCHEDULING OF APRIL 2003 GENERAL PLAN AMENDMENT REQUESTS**

#### **RECOMMENDED ACTION(S):**

Adopt a minute action to reschedule the April General Plan review to July 2003.

#### **EXECUTIVE SUMMARY:**

City Council policy establishes a schedule for consideration of major land use planning decisions which are reviewed on an annual basis. The policy provides that General Plan Amendment requests would be considered by the City Council during the months of April and October. The policy establishes December 1 as the filing deadline for the April General Plan review. By policy these applications should be considered at either the first or second City Council meeting in April.

The City is currently processing two General Plan Amendment applications. Both applications require Environmental Initial Studies to be prepared. These studies cannot be completed in time to forward the General Plan Amendments to the City Council in April. The Environmental Studies and the required public review period should be completed by the end of May. They can then be forwarded to the Planning Commission in late June and to the City Council in July. It is recommended that the City Council reschedule the April General Plan review to July 2003.

#### **FISCAL IMPACT:**

No budget adjustment required.

**Agenda Item # 2**

**Prepared By:**

**Planning Manager**

**Approved By:**

**Community  
Development Director**

**Submitted By:**

**City Manager**





## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: April 16, 2003***

**Agenda Item # 3**

**Prepared By:**

**Council Services &  
Records Manager/  
City Clerk**

**Submitted By:**

**City Manager**

### **DESIGNATION OF VOTING DELEGATE FOR SPECIAL MEETING (MAY 15<sup>TH</sup>) OF THE LEAGUE OF CALIFORNIA CITIES GENERAL ASSEMBLY**

#### **RECOMMENDED ACTIONS:**

1. Appoint a Council Member Voting Delegate and Alternate to the League of California Cities General Assembly Special Meeting of May 15, 2003; and
2. Direct the City Clerk to Execute and Return the Voting Delegate Form to the League's Office.

#### **EXECUTIVE SUMMARY:**

A letter has been received from John Russo, League of California Cities Attorney, dated April 7, 2003 indicating that the Executive Committee of the League Board of Directors has called a Special Meeting of the General Assembly of the League on Thursday, May 15, 2003 at 1:00 p.m. at the Sacramento Community Center Theater. Mr. Russo indicates that the purpose of the special meeting is to consider one or more proposals prepared by the Board of Directors concerning the state budget and state local fiscal reform. The letter from Mr. Russo is attached for Council reference.

It is being requested that City Councils designate a voting representative and an alternate who will be present at the May 15, 2003 meeting. The League is requesting that the City return the "Voting Delegate Form" to the League no later than Friday May 9, 2003.

**FISCAL IMPACT:** The time necessary to prepare the staff report is accommodated in the Council Services and Records Management Operating Budget.





**CITY COUNCIL STAFF REPORT**  
**MEETING DATE: April 16, 2003**

**TECHNICAL REVISION TO THE COMMUNITY  
DEVELOPMENT BLOCK GRANT (CDBG) ANNUAL  
ALLOCATION (FY2003-2004)**

**RECOMMENDED ACTIONS:**

1. Amend and Adopt Resolution #5661 for the Allocation of FY2003-2004 Federal CDBG Funds.
2. Authorize the City Manager to do everything necessary for the implementation of the CDBG Program including processing any amendments and execution of all required contracts.

**EXECUTIVE SUMMARY:** In March 2003, the City Council approved the allocation of FY2003-2004 CDBG funds. Upon submittal of the City's allocations to the Santa Clara County's Housing and Community Development (HCD), HCD notified us that we had inadvertently used the **estimated** funds of \$173,720 rather than the **actual** funds of \$172,200. This means an allocation of \$1,520 in excess of the actual available funds was made (\$1,292 in non-public services activities and \$228 in public services activities).

To address this issue, we are recommending that the non-public services award for the Galvan Park Improvements be reduced by \$1,292 from \$88,126 to \$86,834. With regards to public services activities, we are recommending that the award to Healthy Kids Program be reduced by \$228 from \$5,224 to \$4,996. This is a new program and most likely would have received a lower amount if we had used the actual amount of funds available. HCD is requiring us to amend the previously approved Resolution #5661 to reflect the actual award amounts. We have also taken steps to ensure that we avoid this situation in the future.

All other aspects of the March 19, 2003 staff report remain unchanged and in full force.

**FISCAL IMPACT:** The City will amend the allocated \$173,720 in CDBG funds for FY2003-04 to the actual amount of \$172,200.

Agenda Item # 4

Prepared By:

Municipal Services Assist.

Submitted By:

BAHS Director

Approved By:

City Manager





## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: April 16, 2003***

### **TITLE: AGREEMENT WITH THE LAW FIRM OF HATCH & PARENT**

#### **RECOMMENDED ACTIONS:**

Authorize the City Manager to execute an Agreement with the law firm of Hatch & Parent.

#### **EXECUTIVE SUMMARY:**

On May 21, 2002, the City contracted with the law firm of Hatch & Parent to provide the City with legal services in connection with the perchlorate land and water contamination. The City's contract with Hatch & Parent expires on April 30, 2003. As this matter is ongoing, staff is recommending that Council approve the attached Consultant Agreement in the amount of \$50,000 to cover Hatch & Parent's continuing representation of the City's interests.

#### **FISCAL IMPACT**

The cost of this agreement will be appropriated from the water fund budget.

**Agenda Item # 5**

**Prepared By:**

\_\_\_\_\_  
**(Title)**

**Approved By:**

\_\_\_\_\_  
**(Department Director)**

**Submitted By:**

\_\_\_\_\_  
**City Manager**





## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: APRIL 16, 2003***

### **EMPLOYMENT AGREEMENTS WITH CITY MANAGER AND CITY ATTORNEY**

**Agenda Item # 6**

**Recommended and  
Submitted By:**

**Mayor**

**RECOMMENDED ACTION(S):** Approve amendments to the employment agreements for the City Manager and City Attorney to defer salary adjustments.

**EXECUTIVE SUMMARY:** The City Manager and the City Attorney are appointed by the City Council and compensated pursuant to separate employment agreements.

Although the provisions are slightly different, both agreements provide for an automatic salary adjustment based on CPI or other increases granted to the unrepresented management group.

Both Ed Tewes and Helene Leichter have proposed to amend those agreements to defer any automatic salary adjustments in the light of the current budgetary situation.

The amendments are attached and are recommended by the Compensation Subcommittee of the City Council, Mayor Kennedy and Councilmember Larry Carr.

**FISCAL IMPACT:** The cost of salary adjustments tied to the CPI will be avoided for the next fiscal year.





## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: APRIL 16, 2003***

### **ACCEPTANCE OF PUBLIC IMPROVEMENTS FOR WEST MIDDLE - ROCHA**

#### **RECOMMENDED ACTION(S):**

1. Adopt the attached resolution accepting the public improvements for West Middle - Rocha.
2. Direct the City Clerk to file a Notice of Completion with the County Recorder's office.

**EXECUTIVE SUMMARY:** This proposed two lot subdivision is located on the southwest corner of the Olive Avenue and West Middle Avenue intersection (see attached location map). The developer elected to install the public improvements for his subdivision prior to recordation of his parcel map. As a result the developer was not required to enter into a subdivision improvement agreement with the City.

The public improvements have been completed in accordance with the tentative map conditions and as set forth in the plans and specifications approved by the City.

#### **FISCAL IMPACT:**

Staff time for this project was paid for by development fees.

**Agenda Item # 7**

**Prepared By:**

**Senior Civil Engineer**

**Approved By:**

**Public Works Director**

**Submitted By:**

**City Manager**



**RESOLUTION NO. 5664**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
MORGAN HILL ACCEPTING THE SUBDIVISION  
IMPROVEMENTS FOR WEST MIDDLE-ROCHA.**

**WHEREAS**, Fernando Rocha (developer) has submitted a 2-lot parcel map on the southwest corner of Middle and Olive Avenues; and

**WHEREAS**, developers choose to complete the required public street improvements prior to recordation of the Parcel Map in accordance with the State Subdivision Map Act; and

**WHEREAS**, Jim Ashcraft, City Engineer, has certified in writing to the City Council that all of said improvements have been installed according to the City specifications and plans for said subdivision.

**NOW, THEREFORE**, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, AS FOLLOWS:

1. The City Council hereby finds and determines that all public improvements required to be constructed pursuant to the above-mentioned Parcel Map have been completed in accordance with the plans and specifications for said improvements.
2. This resolution shall constitute an interim acceptance of all said public improvements and the date of its passage shall constitute the starting day for computing the one year maintenance provisions.
3. The City Clerk, following adoption of this resolution, will file with the Recorder of Santa Clara County, California a Notice of Completion of the subdivision public improvements.
4. If requested by the developer, the City Clerk hereby is authorized to record a certified copy of this resolution with the Recorder of Santa Clara County, California.

**PASSED AND ADOPTED** by the City Council of Morgan Hill at a Regular Meeting held on the 16<sup>th</sup> Day of April, 2003, by the following vote.

**AYES:            COUNCIL MEMBERS:**  
**NOES:           COUNCIL MEMBERS:**  
**ABSTAIN:       COUNCIL MEMBERS:**  
**ABSENT:        COUNCIL MEMBERS:**

**☞ CERTIFICATION ☞**

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA**, do hereby certify that the foregoing is a true and correct copy of Resolution No. 5664, adopted by the City Council at a Regular Meeting held on April 16, 2003.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

**DATE:** \_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**



Record at the request of  
and when recorded mail to:

CITY OF MORGAN HILL  
CITY CLERK  
17555 Peak Avenue  
Morgan Hill, CA 95037

RECORD AT NO FEE PURSUANT TO GOVERNMENT CODE SECTION 27383

NOTICE OF COMPLETION

CITY OF MORGAN HILL

**WEST MIDDLE - ROCHA**

NOTICE IS HEREBY GIVEN, pursuant to Section 3093 of the Civil Code of the State of California, that the Director of Public Works of the City of Morgan Hill, California, signed below, represents the City of Morgan Hill as the owner of the public improvements for the above named development. Said improvements were substantially completed on March 13, 2003, by Fernando Rocha, the developer of record and accepted by the City Council on April 16, 2003. Said improvements consisted of public streets, utilities and appurtenances.

Name and address of Owner: City of Morgan Hill  
17555 Peak Avenue  
Morgan Hill, California

Dated: \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Jim Ashcraft, Director of Public Works

I certify under penalty of perjury that the foregoing is true and correct.

\_\_\_\_\_  
Irma Torrez, City Clerk  
City of Morgan Hill, CA  
Date: \_\_\_\_\_





## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: APRIL 16, 2003***

### **APPROVE FINAL MAP FOR CENTRAL PARK PHASE VI (TRACT 9475)**

#### **RECOMMENDED ACTION(S):**

Authorize the recordation of the map following recordation of the Development Improvement Agreement

**EXECUTIVE SUMMARY:** Tract 9475 is a 8 lot subdivision located on the north side of East Central Avenue between Calle Mazatan and Grand Prix Way (see attached diagram). The developer has completed all the conditions specified by the Planning Commission in the approval of the Tentative Map on October 8, 2002.

The developer has furnished the City with the necessary documents to complete the processing of the Final Map and has made provision with a Title Company for the recordation of the Final Map.

**FISCAL IMPACT:** Development review for this project is from development processing fees.

**Agenda Item # 8**

**Prepared By:**

**Senior Engineer**

**Approved By:**

**Public Works Director**

**Submitted By:**

**City Manager**





## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: APRIL 16, 2003***

### **AWARD OF CONTRACT FOR CONSTRUCTION OF BUTTERFIELD BOULEVARD SEWER TRUNK PROJECT**

#### **RECOMMENDED ACTION(S):**

1. Award contract to California Trenchless, Inc. for the construction of the Butterfield Boulevard Sewer Trunk Project in the amount of \$291,882.

#### **EXECUTIVE SUMMARY:**

The scope of the work for this project includes the installation of approximately 3,100 linear feet of 24" sewer pipe along Butterfield Boulevard, between San Pedro Avenue and Main Avenue, including all trenching, backfilling, compacting, testing, and all appurtenances to complete the work.

The bid opening was held on April 3, 2003 and the bids received are listed below. The low bid is 30% below the engineer's estimate of \$430,000. The number of bids received and their corresponding values can be attributed to a higher than anticipated degree of competition for this work. The low bidder is California Trenchless, Inc. California Trenchless has not performed work for the City of Morgan Hill, but has completed similar underground projects for the City of Hayward, City of Vallejo, City of Belmont, and the City of Santa Clara. Staff checked references and found that other Cities were pleased with their work, had minimal change orders and were easy to work with. Staff therefore recommends award of the Contract to California Trenchless. The project is scheduled to commence in mid May, 2003 and be complete by July 2003.

California Trenchless, Inc.	\$291,882
Pacific Underground Construction	\$307,820
McGuire & Hester	\$330,700
KJ Woods Construction, Inc.	\$344,000
Santa Cruz Engineering Contractors	\$349,900
Preston Pipelines	\$352,315
Trinchero Construction	\$355,150
Ebert/Stacy and Witback Joint Venture	\$392,800
Monterey Peninsula Engineering	\$394,500
Pfister Excavating, Inc.	\$418,300
Granite Rock Pavex Construction Division	\$429,400

#### **FISCAL IMPACT:**

The total contract cost for this project is \$321,082, which includes a 10% contingency of \$29,200. The project will be funded under Project #314002 in the amount of \$321,082.

#### **Agenda Item #9**

**Prepared By:**

**Associate Engineer**

**Approved By:**

**Public Works Director**

**Submitted By:**

**City Manager**





***CITY COUNCIL STAFF REPORT***  
***MEETING DATE: APRIL 16, 2003***

***FINAL MAP ACCEPTANCE FOR MONTE VISTA PH. III***  
***(TRACT 9478)***

**RECOMMENDED ACTION(S):**

- 1) Approve the final map, subdivision agreement and improvement plans
- 2) Authorize the City Manager to sign the Subdivision Improvement Agreement on behalf of the City
- 3) Authorize the recordation of the map and the Subdivision Improvement Agreement following recordation of the Development Improvement Agreement

**EXECUTIVE SUMMARY:**

Tract 9478 is a 21 lot subdivision located on the west side of Hale Road approximately 1000 feet south of the Hale Avenue and Llagas Road intersection (see attached location map). The developer has completed all the conditions specified by the Planning Commission in the approval of the Tentative Map on October 8, 2002.

The developer has furnished the City with the necessary documents to complete the processing of the Final Map and has made provision with a Title Company to provide the City with the required fees, insurance and bonds prior to recordation of the Final Map.

**FISCAL IMPACT:**

Development review for this project is paid from development processing fees.

**Agenda Item # 10**

**Prepared By:**

**Senior Civil Engineer**

**Approved By:**

**Public Works Director**

**Submitted By:**

**City Manager**





## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: APRIL 16, 2003***

### **ACCEPTANCE OF CONSTRUCTION OF THE WARREN/HALE/NOB HILL TERRACE STREET IMPROVEMENT PROJECT**

#### **RECOMMENDED ACTION(S):**

1. Accept as complete the construction of the Warren/Hale/Nob Hill Terrace Street Improvement Project in the final amount of \$625,281.
2. Direct the City Clerk to file the attached Notice of Completion with the County Recorder's office.

#### **EXECUTIVE SUMMARY:**

The contract for the Construction of the Warren/Hale/Nob Hill Terrace Street Improvement Project was awarded to Wattis Construction Co., by the City Council at their July 10, 2002, meeting in the amount of \$572,250. The scope of work consisted of providing new curbs, gutters, sidewalks, sanitary sewer mains, storm drains, and roadway pavement on portions of Warren Avenue, Hale Avenue, and Nob Hill Terrace. New water services were provided to homes which required meter relocation. Roadway pavement improvements included sections of both overlay and full reconstruction. Over 1,000 linear feet of new sidewalks, curb and gutters, as well as driveway restoration work behind the sidewalk provided an improved walking environment for pedestrians. During construction, five change orders totaling \$53,031 were issued for unforeseen conditions encountered during the installation of the improvements.

The work has been completed in accordance with the plans and specifications.

#### **FISCAL IMPACT:**

The total contract cost budgeted for this project was \$629,475, which includes a 10% contingency of \$57,225, and the project was completed for a final cost of \$625,281. The total contract price of \$629,475 is funded from the following: \$49,913 (653-Water Replacement Fund); \$339,000 (317-RDA Fund); \$78,037 (304-Local Drainage Fund, Non-AB1600); \$162,525 (643-Sewer Replacement Fund)

#### **Agenda Item #11**

**Prepared By:**

**Senior Engineer**

**Approved By:**

**Public Works Director**

**Submitted By:**

**City Manager**



Record at the request of  
and when recorded mail to:

CITY OF MORGAN HILL  
CITY CLERK  
17555 Peak Avenue  
Morgan Hill, CA 95037

RECORD AT NO FEE PURSUANT TO GOVERNMENT CODE SECTION 27383

NOTICE OF COMPLETION  
CITY OF MORGAN HILL

**CONSTRUCTION OF THE WARREN/HALE/NOB HILL TERRACE STREET  
IMPROVEMENT PROJECT**

NOTICE IS HEREBY GIVEN, pursuant to Section 3093 of the Civil Code of the State of California, that the Director of Public Works of the City of Morgan Hill, California, on the 10th day of July, 2002, did file with the City Clerk of said City, the contract for performing work which was heretofore awarded to Wattis Construction Co., on July 10, 2002, in accordance with the plans and specifications for said work filed with the City Clerk and approved by the City Council of said City.

That said improvements were substantially completed on March 31, 2003, accepted by the City Council on April 16, 2003, and that the name of the surety on the contractor's bond for labor and materials on said project is the American Motorists Insurance Company.

That said improvements consisted of the construction and installation of all items of work provided to be done in said contract, all as more particularly described in the plans and specifications therefor approved by the City Council of said City.

Name and address of Owner: City of Morgan Hill  
17555 Peak Avenue  
Morgan Hill, California

Dated: \_\_\_\_\_, 2003.

\_\_\_\_\_  
Jim Ashcraft, Director of Public Works

I certify under penalty of perjury that the foregoing is true and correct.

\_\_\_\_\_  
Irma Torrez, City Clerk  
City of Morgan Hill, CA  
Date: \_\_\_\_\_





**CITY COUNCIL STAFF REPORT**  
**MEETING DATE:** *April 16, 2003*

Agenda Item # 12

Prepared By:

Asst. to the City Mgr.

Submitted By:

City Manager

**UPDATE ON DEVELOPMENT PROCESSING  
SERVICES STUDY IMPLEMENTATION**

**RECOMMENDED ACTION**

**1. Accept report** on the implementation status of development processing service recommendations.

**2. Direct staff** to report back on implementation status in October 2003.

**EXECUTIVE SUMMARY:**

Last fall, the City Council received a report from MAXIMUS, Inc. regarding the City's development processing services. The report suggested 39 actions to improve these services. On November 6, 2002, the Council accepted staff's proposed schedule for implementing MAXIMUS's recommendations.

The table in Attachment A shows the current status of each of the recommendations made by MAXIMUS. Twenty-one recommendations have already been put into practice and eight more will be complete within the next six months. Some of the high-priority recommendations that have already been implemented include the assignment of an Engineering representative to City Hall on a part-time basis; faster routing and processing of development applications; faster plan checking; better documentation of staff comments on applications; and improved tracking of multi-departmental review times. The Economic Development Coordinating Group has also served to help expedite processing of economically important projects.

Five recommendations have been deferred due to budget constraints. With capital investments in City operations currently on hold, it is not possible to implement the recommendations related to expanded use of the Tidemark automated permitting and project staffing software, or to integrate Geographic Information Systems (GIS) software with Tidemark. In addition, the City's hiring freeze has prevented filling the Senior Planner vacancy on an ongoing basis. Adding new positions is not feasible at this time either, so the creation of a full-time position for a building maintenance supervisor is on hold.

Most of the remaining recommendations will be completed in the next several months. Adoption of a new handbook for the ARB will establish definitive standards for site review. In May the Council will consider the use of City-initiated planned unit development rezoning, and blanket contracts for environmental review are expected to be in place by the end of June. The update of the Planning Division's Policy and Procedures Manual later this year will achieve several of the outstanding recommendations. Exceptions are the recommendations for which the study suggested longer timelines for completion: the creation of a one-stop permitting center, and the ability to issue permits online.

**FISCAL IMPACT:**

No budget adjustment required at this time.



**Attachment A**

**Status Report on Implementation of Study Recommendations**

<b>No.</b>	<b>Recommendation</b>	<b>Pri- ority</b>	<b>Timeline to Initiate</b>	<b>Responsibility</b>	<b>Cost</b>	<b>Currently budgeted? If not, staff funding recommendations</b>	<b>Current status of this recommen- dation</b>	<b>Staff comments about implementing this recommendation</b>
<b>Cross-departmental Recommendations</b>								
1.0	Implement automated permitting & project tracking in all divisions. Provide tech support and training	1	Underway	Community Development Director/Public Works Director	No additional capital cost for CDD. \$50,000 cost for PW is budgeted in current year. Minimal cost for BAHS training.	Implementing Tidemark is underway in Planning, and budgeted in Public Works. However, significant additional costs are likely to arise. See staff comments.	Deferred due to budget constraints.	
1.1	Acquire capability to provide online access for issuance of simple permits, for inspection requests and to provide access to project status	2	Within 3 years. (Depends on availability of reliable software)	Community Development Director/Public Works Director	IVR system in place for inspection requests by phone. Capital cost for e-permitting, incl. project status approx. \$125,000. Maint. cost \$6,000 per yr.	Not budgeted.	Pending. On schedule for 05/06 implementation, as recommended.	Based on reports from other communities, this technology is not fully functional at this time. Staff plans to wait until FY 05/06, in order to deploy a product that has been tested and reliably used elsewhere.
1.2	Acquire capability to integrate GIS with the permitting system	2	FY 2003-04	Public Works Director	Capital cost approx. \$10,000. Annual maint. cost unknown	Not budgeted.	Deferred due to budget constraints.	A GIS needs analysis has been completed.



<b>No.</b>	<b>Recommendation</b>	<b>Pri- ority</b>	<b>Timeline to Initiate</b>	<b>Responsibility</b>	<b>Cost</b>	<b>Currently budgeted? If not, staff funding recommendations</b>	<b>Current status of this recommen- dation</b>	<b>Staff comments about implementing this recommendation</b>
2.0	Work toward creation of a one-stop permitting center housing all development review departments	3	FY2007-08	City Manager/ City Council	Unknown	Remodeling the library for City use is In CIP budget for FY 03-04. However, best estimates at this time are that the earliest this could occur is in FY 05-06.	Pending approval of library grant for construction of new library.	The current CIP assumes that a new Library will be built on Alkire Road and that the old library will be remodeled and used by CDD and PW staff.
2.1	Assign Engineering representative to City Hall part-time	1	FY 2002-03	Public Works Director	Minimal cost	No budget impact.	Completed.	Assignment began November 11, 2002.
3.0	Obtain expedited processing for economically important projects through the Econ. Dev. Coordinating Group and division managers	1	Immediate	BAHS Director/ Community Development Director/Public Works Director	No cost	No budget impact.	Complete, and ongoing.	This procedure has been incorporated. Staff will continue to evaluate the effectiveness of our procedures for processing economically important projects.
3.1	Document schedules for expedited processing of economically important projects	1	Immediate	BAHS Director/ Division Managers	No cost	No budget impact.	Complete, and ongoing.	



No.	Recommendation	Pri- ority	Timeline to Initiate	Responsibility	Cost	Currently budgeted? If not, staff funding recommendations	Current status of this recommen- dation	Staff comments about implementing this recommendation
<b>Planning Division Recommendations</b>								
4.0	Fill Senior Planner vacancy and fund half-time contract planner	1	FY 2002-03	Community Development Director	Sr. Planner \$93,000 in current budget. Half-time contract planner approx. \$50,000		Deferred due to budget constraints.	The Senior Planner has not been hired due to the hiring freeze. Two contract planners handle day-to-day and long-range planning, and are funded through 6/03.
5.0	Upgrade performance standards and improve performance measurement for development review in Planning	1	FY 2002-03	Planning Manager	No cost	No budget impact.	In process. Work began 4/03.	The Division Policy & Procedures Manual will be updated to incorporate these recommendations.
5.1	Begin routing applications within two work days	1	Underway	Planning Manager	No cost	No budget impact.	Complete	
5.2	Establish timelines for initial reviews and re-submittal reviews	1	Immediate	Planning Manager	No cost	No budget impact.	In process	A streamlined process has been developed. Specific timelines will be included in the update of the policy and procedures manual.



<b>No.</b>	<b>Recommendation</b>	<b>Pri- ority</b>	<b>Timeline to Initiate</b>	<b>Responsibility</b>	<b>Cost</b>	<b>Currently budgeted? If not, staff funding recommendations</b>	<b>Current status of this recommen- dation</b>	<b>Staff comments about implementing this recommendation</b>
5.3	Comply with recommended timelines for building plan check review	1	When staffing allows	Planning Manager	Staffing costs shown in 4.0	Budget adjustment made to continue contract planner position.	Complete and ongoing.	Staff meet the recommended timelines 95% of the time. When delays occur, they are typically no more than 1-2 days. Compliance is monitored through the Development Review Committee process.
5.4	Use Tidemark system to alert for deadlines and measure development review performance in Planning	1	FY 2002-03	Planning Manager	No additional cost (system is being implemented)		Complete and ongoing.	
5.5	Track re-submittals in Planning and review when more than one is required	1	FY 2002-03	Planning Manager	No cost	No budget impact.	Complete and ongoing.	This has been added to the Division Work Plan as a performance measure.
5.6	Clarify customer service policies and notify applicants	1	Immediate	Planning Manager	No cost	No budget impact.	In process. Work will begin in 4/03.	To be included in the update of the policy & procedures manual.



<b>No.</b>	<b>Recommendation</b>	<b>Pri- ority</b>	<b>Timeline to Initiate</b>	<b>Responsibility</b>	<b>Cost</b>	<b>Currently budgeted? If not, staff funding recommendations</b>	<b>Current status of this recommen- dation</b>	<b>Staff comments about implementing this recommendation</b>
5.7	Document meeting results in writing	1	Underway	Planning Manager	No cost	No budget impact.	Complete and on-going	This recommendation is already a standard practice.
6.1	Base Architectural and Site Review on definitive standards	1	Underway	City Council/ ARB/Comm. Dev. Director	ARB handbook and design review ord. underway. Added cost \$4,000	Budgeted 02-03.	In process. Handbook to be developed by 6/03.	Draft of new standards was reviewed by the ARB, but ARB disagreed with objective. Work on the handbook will continue.
6.2	Cite specific standards for architectural and site design requirements	1	Immediate	ARB/Planning Manager	No cost	No budget impact.	Pending	Will be implemented following completion of recommendation 6.1
6.3	Forward non-compliant project designs without delay to ARB for disposition	1	Underway	Planning Manager	No cost	No budget impact.	Complete and ongoing	This is now a standard practice.
6.4	Reconsider use of City-initiated PUD rezoning to control design of commercial developments	2	FY 2002-03	Community Development Director	Can be included in zoning ordinance update. No added cost.	No budget impact.	In process. May be complete in 5/03.	Council direction on this to be clarified in 5/03.



No.	Recommendation	Pri- ority	Timeline to Initiate	Responsibility	Cost	Currently budgeted? If not, staff funding recommendations	Current status of this recommen- dation	Staff comments about implementing this recommendation
7.0	Consider changes to Measure P to reduce processing time and staff workloads	2	FY 2003-04	City Council/ Voters	Possible cost reduction		In process	Update committee has completed work. Election planned for March 2004.
8.1	Negotiate blanket contracts with consultants for environmental review	1	FY 2002-03	Planning Manager/City Council	No cost	No budget impact.	In process. To be complete by 6/03.	
8.2	Phase out multiple files for a single project	1	FY 2002-03	Planning Manager	No cost	No budget impact.	Pending	Staff are evaluating the feasibility of implementing this recommendation. Projects are being filed under single file number, however, some projects require multiple files due to the volume of paperwork.
<b>Engineering Division Recommendations</b>								
9.1	Reduce processing time goals for initial submittals in Engineering to 6 weeks	1	FY 2002-03	Public Works Director	Minimal cost	No budget impact.	Complete	



<b>No.</b>	<b>Recommendation</b>	<b>Pri- ority</b>	<b>Timeline to Initiate</b>	<b>Responsibility</b>	<b>Cost</b>	<b>Currently budgeted? If not, staff funding recommendations</b>	<b>Current status of this recommen- dation</b>	<b>Staff comments about implementing this recommendation</b>
9.2	Comply with recommended timelines for building plan check review	1	FY 2002-03	Public Works Director	Minimal Cost	No budget impact.	Complete and ongoing.	
9.3	Use Tidemark system to alert for deadlines and measure development review performance in Engineering	1	FY 2002-03	Public Works Director	No cost	See notes on recommendation 1.	Deferred due to budget constraints.	See notes on recommendation 1. Deploying Tidemark in PW is currently on hold.
9.4	Track re-submittals in Engineering and review when more than two are required	1	FY 2002-03	Public Works Director	No cost	No budget impact.	Complete	
9.5	Clarify customer service policies and notify applicants	1	Immediate	Public Works Director	No cost	No budget impact.	Complete	
9.6	Document meeting results in writing	1	Immediate	Public Works Director	No cost	No budget impact.	Complete	



No.	Recommendation	Pri- ority	Timeline to Initiate	Responsibility	Cost	Currently budgeted? If not, staff funding recommendations	Current status of this recommen- dation	Staff comments about implementing this recommendation
10.0	Develop fast-track processing procedures in Engineering for simple projects	1	FY 2002-03	Public Works Director	Minimal cost	No budget impact.	In process. Written procedures will be complete by 6/03.	The processing speed has increased with the placement of an engineer at City Hall. Written procedures are to be developed.
<b>Building Division Recommendations</b>								
11.1	Define plan check timelines for different project types in Building	1	Immediate	Chief Building Official	No cost	No budget impact.	Complete.	
11.2	Route building plans to other divisions within 2 work days	1	Immediate	Chief Building Official	No cost	No budget impact.	Complete	
11.3	Eliminate unnecessary routing of building plans to other divisions	1	FY 2002-03	Chief Building Official	No cost	No budget impact.	Complete	
11.4	Do in-house plan check for all building plans with a recommended plan check goal $\leq$ 5 days	2	FY 2003-04	Chief Building Official	Possible cost reduction.	No budget impact.	Complete	



<b>No.</b>	<b>Recommendation</b>	<b>Pri- ority</b>	<b>Timeline to Initiate</b>	<b>Responsibility</b>	<b>Cost</b>	<b>Currently budgeted? If not, staff funding recommendations</b>	<b>Current status of this recommen- dation</b>	<b>Staff comments about implementing this recommendation</b>
11.5	Track review times for all units involved in plan check process and prepare reports	1	FY 2002-03	Chief Building Official	Minimal cost	No budget impact.	Complete	
12.0	Respond to 95% of building inspection requests within 1 work day and all within 2 days	1	Ongoing	Chief Building Official	No cost	No budget impact.	Complete	
13.0	Create a full-time position for a building maintenance supervisor	2	FY 2003-04	Community Development Director	Unknown. Much of cost should be offset by savings in contract services	Will be budgeted for FY 04-05. Staff estimate that \$12k in contract plan check fees would help offset the staffing increase.	Deferred due to budget constraints.	Staff are studying the City's facilities maintenance structure and operations, and will consider this recommendation as part of the study.
14.0	Reclassify one existing building inspector position to a senior building inspector position	2	FY 2003-04	Community Development Director	Added cost approx. \$10,000 per year	Proposed in FY 03-04 budget.	Pending	
15.0	Develop more detailed application brochures for most common types of plan checks	1	FY 2003-04	Chief Building Official	Minimal cost	No budget impact.	Complete.	





## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: April 16, 2003***

**Agenda Item # 13**

**Prepared By:**

**Assistant to the City  
Manager**

**Submitted By:**

**City Manager**

### **COUNTYWIDE AB 939 IMPLEMENTATION FEE**

#### **RECOMMENDED ACTION(S):**

Direct Staff to Provide Comments to The County

**EXECUTIVE SUMMARY:** The County has collected an AB 939 Implementation Fee on behalf of all jurisdictions within the County since July 1992. The fee was developed to provide revenues to cities for the development and implementation of AB 939 programs. The fee is currently \$2.80 per ton of waste disposed at a landfill within the County. Of this amount, \$1.30 is allocated to directly fund AB 939 waste diversion programs and \$1.50 is allocated to directly fund household hazardous waste disposal. All revenue collected by the County on the City's behalf is forwarded to the City based upon the amount of waste originating from Morgan Hill. The City uses these funds exclusively for planning, monitoring, and implementing solid waste diversion activities

The current three-year agreement expires on June 30. The County's Technical Advisory Committee for solid waste issues evaluated the current level of the fee and recommended increasing the fee by \$.55 per ton in order to maintain the intended level of waste reduction and household hazardous waste management services. The County's full analysis is attached.

At this time, the County is asking cities for comments on the proposed increase. Staff is supportive of the increase and recommends that the City's support be communicated to the County.

**FISCAL IMPACT:** No budget adjustment is requested at this time. As the agreement is not yet proposed for adoption, there are no direct fiscal impacts from this item.





**CITY COUNCIL STAFF REPORT**  
**MEETING DATE: April 16, 2003**

Agenda Item # 14

Prepared By: \_\_\_\_\_

Asst. to the City Mgr. \_\_\_\_\_

Submitted By: \_\_\_\_\_

City Manager \_\_\_\_\_

**ANNUAL REPORT ON ADVANCED LIFE**

**SUPPORT SERVICES AND RENEWAL OF CONTRACT**

**RECOMMENDED ACTION**

**Accept** report from Santa Clara County Fire Department for Advanced Life Support (ALS) services from April 1, 2002 to February 28, 2003, thereby renewing ALS services for FY 2003-04.

**EXECUTIVE SUMMARY:**

Effective June 1, 2000, the City's contract with Santa Clara County Fire Department for fire protection services was amended to provide for fire engine-based Advance Life Support (ALS) First Responder Services. This contract amendment guaranteed that firefighter paramedics would be assigned to each engine company in Morgan Hill around the clock.

Attached is a service report from County Fire for ALS services provided between April 2002 and February 28, 2003. In the City's agreement with the County, the following service benchmark was established: that the County would respond to Code 3 medical calls to urban areas in less than 12 minutes at least 90% of the time. This benchmark was met in the reporting time frame. In fact, during that time period, Code 3 medical call response times of 7.59 minutes or less were achieved 97.32% of the time.

According to the terms of the ALS amendment to the fire contract, by accepting this report the Council will accept the automatic renewal of the ALS contract for FY 2003-04.

**FISCAL IMPACT:**

The contract for Advanced Life Support services is being incorporated in the proposed FY 2003-04 budget. No financial adjustment is required.



**Morgan Hill Advanced Life Support Summary**  
**April 1, 2002 - February 28, 2003**

<b>Month/Year</b>	<b>Total Number of County Fire ALS Responses</b>	<b>Total Number of ALS Calls With Response Times &lt;7:59 Minutes</b>	<b>% of Calls With Response Times &lt;7:59 Minutes</b>
Apr-02	100	98	98.00%
May-02	80	78	97.50%
Jun-02	79	78	98.73%
Jul-02	95	94	98.95%
Aug-02	80	78	97.50%
Sep-02	73	72	98.63%
Oct-02	79	77	97.47%
Nov-02	70	68	97.14%
Dec-02	72	67	93.06%
Jan-03	67	66	98.51%
Feb-03	63	61	96.83%
<b>TOTALS</b>	<b>858</b>	<b>837</b>	<b>97.55%</b>





**CITY COUNCIL STAFF REPORT**  
**MEETING DATE: APRIL 16, 2003**

Agenda Item # 15

Prepared By:

Deputy City Clerk

Approved By:

City Clerk

Submitted By:

City Manager

**ADOPT ORDINANCE NO. 1612, NEW SERIES**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL REPEALING CHAPTER 15.44 (Fire Prevention Code) OF TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL, AND ADOPTING CHAPTER 15.44 (Fire Prevention Code) OF TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL, THEREBY ADOPTING BY REFERENCE AS THE FIRE CODE OF THE CITY OF MORGAN HILL THE TEXT OF THE 2001 CALIFORNIA FIRE CODE, AND THE 2000 EDITION OF THE UNIFORM FIRE CODE AS PUBLISHED BY THE WESTERN FIRE CHIEFS ASSOCIATION, INCLUDING APPENDICES I-C, II-A, II-B, II-C, II-D, II-I, II-J, III-A, III-B, III-C, III-D, IV-A, V-A, VI-A, VI-B, VI-C AND VI-J, AS AMENDED BY THE STATE OF CALIFORNIA, EXCEPT SUCH PORTIONS AS ARE HEREINAFTER DELETED, MODIFIED OR AMENDED REGARDING FIRE PREVENTION AND TOXIC GASES

**RECOMMENDED ACTION(S):**

Waive the Reading, and Adopt Ordinance No. 1612, New Series, and Declare That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived.

**EXECUTIVE SUMMARY:**

On March 26, 2003, the City Council Introduced Ordinance No. 1612, New Series, by the Following Roll Call Vote: AYES: Carr, Chang, Kennedy, Sellers; NOES: None; ABSTAIN: None; ABSENT: Tate.

**FISCAL IMPACT:**

No budget adjustment required.



## **ORDINANCE NO. 1612, NEW SERIES**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL REPEALING CHAPTER 15.44 (Fire Prevention Code) OF TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL, AND ADOPTING CHAPTER 15.44 (Fire Prevention Code) OF TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL, THEREBY ADOPTING BY REFERENCE AS THE FIRE CODE OF THE CITY OF MORGAN HILL THE TEXT OF THE 2001 CALIFORNIA FIRE CODE, AND THE 2000 EDITION OF THE UNIFORM FIRE CODE AS PUBLISHED BY THE WESTERN FIRE CHIEFS ASSOCIATION, INCLUDING APPENDICES I-C, II-A, II-B, II-C, II-D, II-I, II-J, III-A, III-B, III-C, III-D, IV-A, V-A, VI-A, VI-B, VI-C AND VI-J, AS AMENDED BY THE STATE OF CALIFORNIA, EXCEPT SUCH PORTIONS AS ARE HEREINAFTER DELETED, MODIFIED OR AMENDED REGARDING FIRE PREVENTION AND TOXIC GASES**

WHEREAS, Health and Safety Code section 17958 allows the adoption by the City of Morgan Hill of regulations imposing the requirements of certain uniform industry codes as specified in Health and Safety Code section 17922; and,

WHEREAS, the City of Morgan Hill desires to adopt the Uniform Fire Code for use as the Fire Code of the City of Morgan Hill; and,

WHEREAS, Health and Safety Code section 17958.5 permits a city to make changes or modifications to the uniform codes as deemed reasonable because of local climatic, geological or topographical conditions; and,

WHEREAS the City Council finds that amendments to the Uniform Fire Code are necessary to address fire and life safety issues which are of particular concern to the citizens of the City of Morgan Hill, and propound a future direction by which the City can establish and maintain an environment which will afford a higher level of fire and life safety to all who live and work within the City's boundaries; and,

WHEREAS, the City Council finds that, pursuant to Health and Safety Code section 17958.7, the amendments to the Morgan Hill Municipal Code and the California and Uniform Fire Codes as set forth in this Ordinance are reasonably necessary to accommodate local climate, geological, or topographical conditions as set forth in general and specific terms below, and further, that any of which conditions, either alone or in combination with other factors, could quickly exhaust the resources of the Santa Clara County Fire Department, and hinder or prevent the assistance of mutual aid resources, and therefore better management of fire protection risks through these amendments is necessitated;



- (a) local climatic conditions can affect the acceleration, intensity, and size of fire in the community. The City experiences years with little rainfall and frequent periods of low humidity and high temperatures. This combination can create extremely hazardous fire conditions, particularly in the hillside areas of the City. Prevailing winds may also have great impact, particularly during the summer months when such winds may carry burning brands and embers from grass or structure fires great distances, spreading the fire beyond the point of origin;
- (b) the City is situated on and adjacent to active earthquake faults, including the San Andreas, which is capable of producing substantial seismic events. Upon the occurrence of a major seismic event, emergency resources would be substantially stressed and, therefore, would have to be prioritized to mitigate the greatest threats to public safety. The likely result of this situation would be that fire and other emergency resources will be unavailable for responses to commercial and industrial complexes. Some of the variables that would impact and tend to intensify the overall situation would be:
  - (1) the extent of damage to water systems;
  - (2) the extent of isolation of areas due to bridge and/or roadway collapse;
  - (3) the extent of roadway damage and/or amount of debris blocking the roadways;
- (c) the City is located on the valley floor and adjacent hillsides, with the urban/wildland interface areas containing numerous residential, industrial, and commercial developments. Due to the nature of the topography, major arterial roadways often carry heavy commute traffic for South Valley commuters. The numerous two-lane roadways, limited access to various residential areas, and open development pattern with several outlying developments can pose difficulties for emergency vehicle access as well as problems associated with evacuations in the event of a wildland fire, major earthquake or other disaster.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:**

**Section 1.** Chapter 15.44 (Fire Prevention Code) of Title 15 (Buildings and Construction) of the City of Morgan Hill Municipal Code is hereby repealed in its entirety. Chapter 15.44 (Fire Prevention Code) of Title 15 (Buildings and Construction) is hereby readopted to read as follows:

#### **15.44 Fire Prevention Code**

**15.44.010 Adoption of the California Fire and Uniform Fire Codes.**



15.44.020	Uniform Fire Code and California Fire Code defined.
15.44.030	Establishment and duties of bureau of fire prevention.
15.44.040	Modification of provisions by Chief.
15.44.050	Establishment of limits of districts in which storage of flammable or combustible liquids in outside aboveground tanks is prohibited.
15.44.060	Establishment of limits in which storage of liquefied petroleum gases is prohibited.
15.44.070	Establishment of limits of districts in which the storage of explosives and blasting agents is to be prohibited.
15.44.080	Establishment of limits of districts in which the storage of compressed natural gas is to be prohibited.
15.44.090	<i>Establishments of limits of districts in which the storage of stationary tanks of flammable cryogenic fluids are to be prohibited.</i>
15.44.100	<del>15.44.090</del> Section 103.1.4 of the California Fire Code amended--Inspection and enforcement--Appeals.
15.44.110	<del>15.44.100</del> Section 103.3.2.4 added--New construction and alterations--Final inspection.
15.44.120	<del>15.44.110</del> Permits for compressed gases.
15.44.130	<del>15.44.120</del> Permits—Cryogenics.
15.44.140	<del>15.44.130</del> Permits--Day care facility.
15.44.150	<del>15.44.140</del> Permits--Fire protection systems.
15.44.160	<del>15.44.150</del> Permits--Institutional.
15.44.170	<del>15.44.160</del> Table 105-A amended--Permit amounts for compressed gases.
15.44.180	<del>15.44.170</del> Table 105-C amended--Permit amounts for hazardous materials.
15.44.190	<del>15.44.180</del> Section 204-C amended--Definitions and abbreviations--Continuous gas detection system <i>and Corrosive Liquid Definitions.</i>
15.44.200	<del>15.44.190</del> Section 209-H amended--Definitions and abbreviations--Hazardous materials business plan <i>definition.</i>
15.44.210	<del>15.44.200</del> Section 214-M amended--Definitions and abbreviations--Moderately toxic gas <i>Definition.</i>
15.44.220	<i>Refrigerant Circuit Definition.</i>
15.44.230	<del>15.44.210</del> Section 220-S amended--Definitions and abbreviations--Moderately toxic gas. <i>Secondary Containment, Segregated, Semiconductor Fabrication Storage/Use Facility, Definitions.</i>
15.44.240	<i>Workstation Definition.</i>
15.44.250	<i>Access Control Devices.</i>
15.44.260	<del>15.44.220</del> Section 903.3 amended--Water supplies. <i>and fire hydrants.</i>
15.44.270	<del>15.44.230</del> Section 1003.1.2 amended--Fire extinguishing system standards.
15.44.280	<i>Monitoring of Other Approved Fire Extinguishing Systems.</i>
15.44.290	<del>15.44.240</del> Section 1003.2.2 amended--Fire sprinklers required.
15.44.300	<del>Section 4.1 amended--Protection of aboveground tanks for motor vehicle fuel dispensing stations outside building--Appendix H-F.</del>
15.44.300	<i>Immersion Heaters.</i>



- ~~15.44.310 Section 4.3 amended—Protection of aboveground tanks for motor vehicle fuel dispensing stations outside buildings—Appendix H-F.~~
- 15.44.310 *Portable Fueled Open-Flame Heating Appliances.*
- 15.44.320 *Emergency Plans.*
- 15.44.330 *Protected aboveground tanks.*
- 15.44.340 *Refrigeration Systems.*
- 15.44.350 *Refrigeration Definitions.*
- 15.44.360 *Battery System Ventilation.*
- 15.44.370 ~~15.44.250 Section 7901.3.2 amended—Flammable and combustible liquids--Plans.~~
- 15.44.380 ~~15.44.260 Section 7901.13 added—Flammable and combustible liquids--Monitoring.~~
- 15.44.390 ~~15.44.270 Section 7901.14 added—Flammable and combustible liquids--Containment requirements.~~
- 15.22.400 ~~15.44.280 Section 7902.2.2.1 amended—Flammable and combustible liquids—Tank Locations. where aboveground tanks are prohibited.~~
- 15.44.410 *Hazardous Materials Permits.*
- 15.44.420 *Hazardous Materials Inventory Statement .*
- 15.44.430 *Systems, Equipment and Processes – Design and Construction.*
- 15.44.440 *Piping for Health Hazard Materials.*
- 15.44.450 *Release of Hazardous Materials.*
- 15.44.460 *Identification Signs.*
- 15.44.470 *Ventilation Ducting Labeling.*
- 15.44.480 *Piping and Tubing Labeling.*
- 15.44.490 *Separation of Incompatible Materials.*
- 15.44.500 *Monitoring of Hazardous Materials.*
- 15.44.510 *Secondary Containment Requirements.*
- 15.44.520 *Storage/Use System Closure.*
- 15.44.530 *Temporarily Out-of-Service Facilities.*
- 15.44.540 *Permanently Out-of-Service Facilities.*
- 15.44.550 *Storage Termination Plan.*
- 15.44.560 *Highly Toxic Gases.*
- 15.44.570 *Highly Toxic Gas – Storage Indoors.*
- 15.44.580 *Highly Toxic Gas – Storage Outdoors.*
- 15.44.590 *Highly Toxic Gas – Use and Handling.*
- 15.44.600 *Highly Toxic Gas – Shut-Off Valves.*
- 15.44.610 *Highly Toxic Gas – Emergency Control Station Signals.*
- 15.44.620 *Highly Toxic Gas – Outdoor Use.*
- 15.44.630 *Toxic and Highly Toxic Gases.*
- 15.44.640 *Toxic Gases – Indoor Storage.*
- 15.44.650 *Toxic Gases – Outdoor Storage.*
- 15.44.660 *Toxic Gases – Indoor Use and Handling.*
- 15.44.670 *Toxic Gases – Seismic Shut-Off Valve.*



- 15.44.680 Toxic Gases – Outdoor Use.**
- 15.44.690 Toxic Gases – Maximum Threshold Quantity.**
- 15.44.700 Moderately Toxic Gases.**
- 15.44.710 Moderately Toxic Gases – Indoor Storage.**
- 15.44.720 Moderately Toxic Gases – Cylinder Leak Testing.**
- 15.44.730 Moderately Toxic Gases – Outdoor Storage.**
- 15.44.740 Moderately Toxic Gases – Indoor Use.**
- 15.44.750 Moderately Toxic Gases – Purge System.**
- 15.44.760 Moderately Toxic Gases – Outdoor Use.**
- 15.44.770 Moderately Toxic Gases – Compliance with Toxic Gas Requirements.**
- 15.44.780 Moderately Toxic Gases – Maximum Threshold Quantity.**
- 15.44.790 Fire Protection for Workstations and Exhaust Ducts.**
- 15.44.800 Fire Protection for Workstations.**
- 15.44.810 Hazardous Materials – Storage In Excess of Exempt Amounts.**
- 15.44.820 Hazardous Materials – Spill Control for Liquids.**
- 15.44.830 Hazardous Materials – Secondary Containment for Liquids and Solids.**
- 15.44.840 TABLE 8003.1-A – REQUIRED SECONDARY CONTAINMENT – HAZARDOUS MATERIALS SOLIDS AND LIQUIDS STORAGE.**
- 15.44.850 Toxic and Highly Toxic Compressed Gases – Indoor Storage.**
- 15.44.860 Toxic and Highly Toxic Compressed Gases – Treatment Systems.**
- 15.44.870 Toxic and Highly Toxic Compressed Gases – Outdoor Storage.**
- 15.44.880 Toxic and Highly Toxic Compressed Gases – Outdoor Storage Distances to Exposures.**
- 15.44.890 Hazardous Materials – Use Dispensing and Handling.**
- 15.44.900 Hazardous Materials Liquids Indoor Dispensing and Use In Open Systems – Spill Control.**
- 15.44.910 Hazardous Materials Liquids Indoor Dispensing and Use In Open Systems – Secondary Containment.**
- 15.44.920 Hazardous Materials Liquids Indoor Dispensing and Use – Spill Control.**
- 15.44.930 Hazardous Materials Liquids Indoor Dispensing and Use – Secondary Containment.**
- 15.44.940 Hazardous Materials Outdoor Dispensing and Use – Quantities Not Exceeding Exempt Amounts.**
- 15.44.950 Hazardous Materials Liquids Outdoor Dispensing and Use – Spill Control for Open Systems.**
- 15.44.960 Hazardous Materials Liquids Outdoor Dispensing and Use – Secondary Containment for Open Systems.**
- 15.44.970 Hazardous Materials Liquids Outdoor Dispensing and Use – Spill Control for Closed Systems.**
- 15.44.980 Hazardous Materials Liquids Outdoor Dispensing and Use – Secondary Containment for Closed Systems.**
- 15.44.990 Special Requirements for Moderately Toxic, Toxic and Highly Toxic Compressed Gases.**
- 15.44.1000 Special Requirements for Moderately Toxic, Toxic and Highly Toxic**



- Compressed Gases – Treatment systems.*
- 15.44.1010** *Hazardous Materials Handling.*
- 15.44.1020** *TABLE 8004.2-A – REQUIRED SECONDARY CONTAINMENT – HAZARDOUS MATERIALS SOLIDS AND LIQUIDS USE.*
- 15.44.1030** ~~15.44.290 Section 8202.1 amended~~–Liquefied petroleum gases--Permits and plans.
- 15.44.1040** Fire Protection Plan Urban-Wildland Interface (UWI) Areas.
- 15.44.1050** ~~15.44.320 Section 5 amended~~–Fire hydrant locations and distribution.--Appendix III-B.
- 15.44.1060** ~~15.44.330 Section 16.3 added~~–Suppression and control of hazardous fire areas.
- 15.44.1070** ~~15.44.340 Section 25 added~~–Roof coverings in hazardous fire area--Appendix II-A.

**15.44.010 Adoption of the California Fire and Uniform Fire Codes.**

There is adopted by reference by the City of Morgan Hill the ~~1998~~ **2001** California Fire Code, and the ~~1997~~ **2000** Uniform Fire Code, including Appendix Chapters I-C, II-A, II-B, II-C, II-D, II-I, II-J, III-A, III-B, ~~III-C, III-D~~, IV-A, V-A, VI-A, VI-B, VI-C, and ~~VI-J~~ the ~~1997~~ Edition of the Uniform Fire Code Standards as published by the *Western Fire Chief Association* ~~International Fire Code Institute~~, save and except such portions as are hereinafter deleted, modified or amended by this chapter. From the effective date of the ordinance codified in this chapter, such codes, as amended in this chapter, shall be controlling within the jurisdictional limits of the City of Morgan Hill. One copy of the codes shall be kept on file at all times in the office of the Building Official of the City of Morgan Hill, and the administrative offices of the Santa Clara County Fire Department, for use and examination by the public.

**15.44.020 Uniform Fire Code and California Fire Code defined.**

Whenever the phrase "Uniform Fire Code" appears in this code or any ordinance of the city, such phrase shall be deemed and construed to refer to and apply to the Uniform Fire Code, ~~2000~~ **1997** Edition, as adopted and amended by this chapter. Whenever the phrase "California Fire Code" appears in this code or any ordinance of the city, such phrase shall be deemed and construed to refer to and apply to the ~~2001~~ **1998** California Fire Code, as adopted and amended by this chapter.

**15.44.030 Establishment and duties of bureau of fire prevention.**

The Uniform Fire Code shall be enforced by the bureau of fire prevention in the Santa Clara County Fire Department, which shall be operated under the supervision of the Chief of the *department* ~~district~~.

**15.44.040 Modification of provisions by Chief.**



A. The Chief of the Santa Clara County Fire Department shall have power to modify any of the provisions of the fire prevention code upon application in writing by the owner or lessee, or their duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the codes, provided that the spirit of the codes shall be observed, public safety secured and substantial justice done.

B. The particulars of such modification, when granted or allowed, and the decision of the Chief shall be entered in the records of the ~~department~~ district and a signed copy shall be furnished to the applicant for modification.

**15.44.050 Establishment of limits of districts in which storage of flammable or combustible liquids in outside aboveground tanks is prohibited.**

The limits referred to in Sections 7902.2.2.1 and 7904.2.5.4.2 of the California Fire Code, in which the storage of flammable or combustible liquids in aboveground tanks is prohibited are established as all locations of the City of Morgan Hill which are residential or concentrated commercial areas as determined by the Fire Chief.

**15.44.060 Establishment of limits in which storage of liquefied petroleum gases is prohibited.**

The limits referred to in Section 8204.2 of the California Fire Code, in which storage of liquefied petroleum gas for the purposes of dispensing is restricted, are established as all locations of the City of Morgan Hill which are residential. Locations for the storage of liquefied petroleum gases for residential use or for storage and/or dispensing in commercial areas shall be as approved by the Fire Chief.

*Exceptions: LPG may be used for industrial operations or when natural gas would not provide a viable substitute for LPG. Portable containers for temporary heating and/or cooking uses may be permitted if stored and handled in accordance with this code. Facilities in commercial area for refueling portable or mobile LPG containers may be approved by the Chief on a case-by-case basis.*

**15.44.070 Establishment of limits of districts in which the storage of explosives and blasting agents is to be prohibited.**

The limits referred to in Section 7701.7.2 of the California Fire Code, in which the storage of explosives and blasting agents is prohibited, are established as the *city* limits of the City of Morgan Hill.

**15.44.080 Establishment of limits of districts in which the storage of compressed natural gas is to be prohibited.**

The limits referred to in Section 5204.5.2 of the California Fire Code, in which the storage of compressed natural gas for the purposes of dispensing is prohibited, are established as all locations of the City of Morgan Hill which are residential. Locations for



the storage of compressed natural gas for residential use or for storage and/or dispensing in commercial areas shall be as approved by the Fire Chief *on a case-by-case basis*.

***15.44.090 Establishments of limits of districts in which the storage of stationary tanks of flammable cryogenic fluids are to be prohibited.***

***The limits referred to in Section 3-1.5 of the Uniform Fire Code Standard 80-3 in which the storage of flammable cryogenic fluids in stationary containers is prohibited are hereby established as all locations of the City of Morgan Hill which are residential and concentrated commercial areas as determined by the Chief.***

***15.44.100 ~~15.44.090~~ Section 103.1.4 of the California Fire Code amended--Inspection and enforcement--Appeals.***

Section 103.1.4.1 is amended *to read* as follows:

**103.1.4.1 Appeals.** In order to review the determinations made by the Fire Chief relative to the suitability of alternative materials and methods of construction, interpretations of the provisions of the Fire Code, and to make recommendations to the City Council concerning amendments to the Fire Code, a Fire Code Advisory Committee consisting of five (5) members qualified by experience and training to pass upon matters pertaining to fire safety shall be appointed by the City Manager as the occasion arises.

The Fire Chief or his designee shall be an ex officio member of the Fire Code Advisory Committee and shall act as secretary. The Fire Code Advisory Committee shall adopt reasonable rules and regulations for conducting its hearings and investigations.

Any person may request a review by the Fire Code Advisory Committee on a subject within the jurisdiction of the Fire Code Advisory Committee. The appeal shall be in writing and filed at the office of the Fire Chief within (30) days of the Fire Chief's determination. The appellant shall agree to bear the expense of any tests required by the Committee in connection with the appeal. The Committee shall render its findings and decisions to the Fire Chief with a copy to the appellant.

***15.44.110 ~~15.44.100~~ Section 103.3.2.4 added--New construction and alterations--Final inspection.***

Section 103.3.2.4 is added to read as follows:

**103.3.2.4 Final Inspection.** No final inspection as to all or any portion of a development shall be deemed completed until the installation of the required fire protection facilities and access ways has been completed and approved. ~~by County Fire Department and the City. When fire protection facilities and access ways are a condition of approval for the development,~~ No final certificate of occupancy may be granted until the ~~County~~ Fire Department issues a notice of final clearance to the City Building Division.



**~~15.44.120~~ 15.44.110 Permits for compressed gases.**

Section 105.8 c.7 is amended to read as follows:

**c.7. COMPRESSED GASES.** To store, use or handle at normal temperatures and pressures compressed gases in excess of the amounts listed in Table 105-A, to install any piped distribution system for compressed gases, or to install a non-flammable medical gas manifold system. A permit is required to install, repair, abandon, remove, place temporarily out of service, close or substantially modify a compressed gas system.

The permit applicant shall apply for approval to close storage, use or handling facilities at least 30 days prior to the termination of the storage, use or handling of compressed or liquefied gases. Such application shall include any change or alteration of the facility closure plan filed pursuant to Section 8001.13. This 30-day period may be waived by the Chief if there are special circumstances requiring such waiver. For emergency repair work, an application for permit shall be made within two working days of commencement of work.

**EXCEPTIONS:**

1. Routine maintenance;
2. Emergency repair work performed on an emergency basis, *however, an application for permit shall be made within two working days of commencement of work.*
3. *Inert and simple asphyxiants at or below the amounts listed in Table 105-A.*

Specific findings: The UFC is silent on the need for a permit for compressed gas piping distribution systems or non-flammable compressed gases used for medical gas systems. This amendment requires permits for those systems since improper installation due to non-regulation may be hazardous.

**~~15.44.130~~ 15.44.120 Permits--Cryogenics.**

Section 105.8 c.9 is amended to read as follows:

**c.9. CRYOGENS.** Except where federal or state regulations apply and except for fuel systems of the vehicle, to produce, store or handle cryogenics in excess of the amounts listed in Table 105-B, or to install a cryogenic vessel or piping system for the storage or distribution of cryogenics. See Article 75.

Specific findings: The UFC is silent on the need for a permit to install a piping distribution system for cryogenics. This amendment requires permits for those systems since improper installation due to non-regulation may be hazardous.



**~~15.44.140~~ ~~15.44.130~~ Permits--Day care facility.**

Section 105.8 d.3 is added to read as follows:

**d.3 Day care facility.** To operate a business as a day care facility for more than 6 people.

Specific findings: The UFC does not require a permit for day care occupancies. Because the Santa Clara County ~~central~~ Fire Department is required by state statute to inspect them, a permit should be required for such occupancies to operate within the city to help insure adequate regulation.

**~~15.44.150~~ ~~15.44.140~~ Permits--Fire protection systems.**

Section 105.8 f.6 is added to read as follows:

**f.6 Fire protection systems.** To install, alter or change any fire hydrant system, fire extinguishing system or fire alarm system.

Specific findings: Although the UFC requires that the Santa Clara County ~~central~~ Fire Department approve the alteration, or change of a fire hydrant system, fire extinguishing system or fire alarm system, it does not require a permit. A permit should be required to insure adequate regulation of these activities and cost recovery for the necessary inspections.

**~~15.44.160~~ ~~15.44.150~~ Permits--Institutional.**

Section 105.8 i.1 is added to read as follows:

**i.1 Institutional.** To operate, maintain, or use any institutional type occupancy. For the purpose of this Section, an institution shall be, but is not limited to: hospitals, children's home, home or institution for insane or mentally retarded persons, home or institution for the care of aged or senile persons, sanitarium, nursing or convalescent home, certified family care homes, residential care homes for the elderly, out of home placement facilities, halfway house, and day care nurseries or similar facility of any capacity.

Specific findings: The UFC does not require a permit for institutional type occupancies. Because the Santa Clara County ~~central~~ Fire Department is required by state statute to inspect them, a permit should be required for such occupancies to operate within the city to help insure adequate regulation.

**~~15.44.170~~ ~~15.44.160~~ Table 105-A amended--Permit amounts for compressed gases.**

Table 105-A is amended as follows:



**TABLE 105-A PERMIT AMOUNTS FOR COMPRESSED GASES<sup>1</sup>**

TYPE OF GAS	AMOUNT (cubic feet) <sup>2</sup> X 0.0283 for m <sup>3</sup>
Corrosive	200
Flammable (except cryogenic and liquefied petroleum gases)	200
Highly toxic	Any amount
Inert and simple asphyxiant	6,000
Irritant	200
Moderately toxic	20
Other health hazards	650
Oxidizing (including oxygen)	504
Pyrophoric	Any amount
Radioactive	Any amount
Sensitizer	200
Toxic	Any amount
Unstable (reactive)	Any amount

<sup>1</sup> See Articles 74, 80 and 82 for additional requirements and exceptions.

<sup>2</sup> ***Cubic feet measured at normal temperature and pressure.***

Specific findings: This amendment adds the category of "moderately toxic" gases to the table. The moderately toxic gas classification is not found in the Fire Code but is found in the toxic gas ordinance (TGO) adopted by the city. Therefore, this amendment is necessary for consistency between the UFC and the TGO.

**~~15.44.180~~ 15.44.170 Table 105-C amended--Permit amounts for hazardous materials.**

Table 105-C is amended as follows:

**TABLE 105-C PERMIT AMOUNTS FOR HAZARDOUS MATERIALS<sup>1</sup>**

TYPE OF MATERIAL	AMOUNT x 0.4536 for lbs. to kg x 3.785 for gal. to L
Carcinogens	10 pounds



Cellulose nitrate	See No. c.4
Combustible fiber	See No. c.5
Combustible liquids	See No. f.3
Corrosive gases	See No. c.7
Corrosive liquids	55 gallons
Corrosive solids	500 pounds
Cryogenics	See No. c.9
Explosives	See No. e.1
<b><i>Fireworks, 1.4G</i></b>	<b><i>See No. f.2</i></b>
Flammable gases	See No. c.7
Flammable liquids	See No. f.3
Flammable solids	10 pounds
Highly toxic gases (including pesticides and fumigants)	See No. c.7
Highly toxic liquids and solids (including pesticides and fumigants)	Any amount
Irritant liquids	55 gallons
Irritant solids	500 pounds
Liquefied petroleum gases	See No. l.1
Magnesium	See No. m.1
Moderately toxic gas	See No. c.7
Nitrate film	See No. c.3
Oxidizing gases	See No. c.7
Oxidizing liquids	Any amount
Oxidizing solids	Any amount
Organic peroxide liquids and solids	Any amount
Other health hazards: Liquids	55 gallons
Other health hazards: Solids	500 pounds
Pyrophoric gases	See No. c.7
Pyrophoric liquids	Any amount
Pyrophoric solids	Any amount
Radioactive materials (including gases, liquids and solids)	See No. c.7 and r.1



Sensitizer liquids	55 gallons
Sensitizer solids	500 pounds
Toxic gases	See No. c.7
Toxic liquids	Any amount
Toxic solids	Any amount
Unstable (reactive) gases	See No. c.7
Unstable reactive liquids	Any amount
Unstable reactive solids	Any amount
Water reactive liquids	Any amount
Water reactive solids	Any amount

<sup>1</sup> See Article 80 for additional requirements and exceptions.

Specific findings: This amendment adds the category of "moderately toxic gas" to the table. The moderately toxic gas classification is not found in the Fire Code but is found in the toxic gas ordinance (TGO) adopted by the city. Therefore, this amendment is necessary for consistency between the UFC and the TGO.

**~~15.44.190 15.44.180 Section 204-C amended Definitions and abbreviations--~~  
Continuous gas detection system and Corrosive Liquid Definitions.**

Section 204-C is amended to read as follows:

**204-C CONTINUOUS GAS DETECTION SYSTEM** is a gas detection system where the analytical instrument is maintained in continuous operation and sampling is performed without interruption. Analysis is allowed to be performed on a cyclical basis at intervals not to exceed 5 minutes.

***CORROSIVE LIQUID.*** *Corrosive liquid is a liquid which, when in contact with living tissue, will cause destruction or irreversible alteration of such tissue by chemical action. Examples include acidic, alkaline or caustic materials. Such material will be considered corrosive when the Ph is 2 or less or 12.5 or more, except for foodstuffs or medicine. Included are materials classified as corrosive by the Department of Transportation and Title 22 California Code of Regulations Section 66261.*

Specific findings: Under the UFC definition, a continuous gas detection system is allowed to perform sampling at thirty minute intervals. It is the consensus of the Santa Clara County hazardous materials subcommittee that thirty minutes is much too long and may allow a lethal condition to develop before the gas leak is detected. This amendment requires that sampling be done at five minute intervals. Under the UFC definition, a Corrosive Liquid is a liquid which damages living tissue. It has been determined that



there are corrosive liquids that do little or no damage to living tissue but can damage other materials such as some metals. Therefore, expanding the definition to include a pH threshold provides a more comprehensive definition.

**~~15.44.200 15.44.190 Section 209-H amended Definitions and abbreviations—~~  
Hazardous materials management plan definition.**

Section 209-H is added to read as follows:

**209-H HAZARDOUS MATERIALS MANAGEMENT BUSINESS PLAN (HMMP HMBP)** is a written plan containing at a minimum the information required pursuant to section 25500 and following of the Health and Safety Code.

Specific findings: The UFC does not use this definition, however, the reference to a hazardous materials management plan is found in the health and safety code which must be enforced pursuant to the adopted hazardous materials storage ordinance. Therefore, this definition is added to be consistent with the health and safety code.

**~~15.44.210 15.44.200 Section 214-M amended Definitions and abbreviations—~~  
Moderately toxic gas Definition.**

Section 214-M is added to read as follows:

**214-M MODERATELY TOXIC GAS** is a chemical or substance that has a median lethal concentration (LC<sub>50</sub>) in air more than 2000 parts per million but not more than 5000 parts per million by volume of gas or vapor, when administered by continuous inhalation for an hour, or less if death occurs within one hour, to albino rats weighing between 200 and 300 grams each.

Specific findings: The UFC does not use this definition, however, the reference to a moderately toxic gas is consistent with other regulations adopted by the city for hazardous materials. Therefore, this definition is added to be consistent with the adopted toxic gas ordinance.

***15.44.220 Refrigerant Circuit Definition.***

***Section 219-R is amended to read as follows:***

***219-R REFRIGERANT CIRCUIT shall consist of all portions of a system that contain refrigerant.***

**~~Section 15.44.230 15.44.210 Section 220-S amended Definitions and abbreviations Moderately toxic gas. Secondary Containment, Segregated, Semiconductor Fabrication Storage/Use Facility, Definitions.~~**



Section 220-S is amended to read as follows:

**220-S**        ***SECONDARY CONTAINMENT is that level of containment that is external to and separate from primary containment and is capable of safely and securely containing the material, without discharge, for a period of time reasonably necessary to ensure detection and remedy of the primary containment failure.***

***SEGREGATED is storage in the same room or inside area, but physically separated by exclusive secondary containment from incompatible materials.***

**STORAGE/USE FACILITY** is a building, portion thereof, or exterior area used for the storage, use, or handling of hazardous materials where the quantity of hazardous materials is equal to or greater than the permit amounts specified in Section 105.

**STORAGE/USE SYSTEM** is any one or combination of tanks, sumps, waste treatment facilities, pipes, vaults or other portable or fixed containers, and their secondary containment systems which are used, or designed to be used, for the storage, use, or handling of hazardous materials at a storage/use facility.

Specific findings: The UFC does not use these definitions, however, the reference *to secondary containment and segregated, as well as* to a storage/use facility and storage/use system is found in other regulations adopted by the city for hazardous materials. Therefore, this definition is added to be consistent with the adopted hazardous materials storage ordinance.

**15.44.240        *Workstation Definition.***

***Section 224-W is amended to add a definition to read as follows:***

***SECTION 224 – WORKSTATION is a defined space or independent principal piece of equipment using hazardous materials where a specific function, laboratory procedure or research activity occurs. Approved or listed hazardous materials storage cabinets, flammable liquid storage cabinets or gas cabinets serving a workstation are included as part of the workstation. A workstation is allowed to contain ventilation equipment, fire protection devices, electrical devices, and other processing and scientific equipment.***

**15.44.250        *Access Control Devices.***

***Section 902.5 is added to read as follows:***

***902.5 Access Control Devices. When access control devices including bars, grates, gates, electric or magnetic locks or similar devices which would inhibit rapid fire department emergency access to the building are installed, such devices shall be approved by the Chief. All access control devices shall be provided with an approved***



*means for deactivation or unlocking by the fire department. Access control devices shall also comply with Article 12 for exiting.*

***Specific Finding: Many businesses install security systems to control personnel entry into buildings or into areas within buildings. These systems also impact the ability for the fire department to access the building in the event of an emergency. This amendment requires that some means be provided for the fire department to deactivate the security access control system under emergency conditions so as not to delay emergency operations. A delay in implementing suppression operations could result in the intensification of the fire, which could overwhelm local fire suppression resources and require mutual aid assistance. The City of Morgan Hill is geographically isolated from adjacent municipalities, therefore, mutual aid response time would be extended potentially resulting in more extensive fire damage.***

**~~15.44.260 15.44.220 Section 903.3 amended—Water supplies. and fire hydrants~~**

Section 903.3 is amended to read as follows:

**903.3. Type of Water Supply.** Water supply is allowed to consist of reservoirs, pressure tanks, elevated tanks, water mains or other fixed systems capable of providing the required fire flow. In setting the requirements for fire flow, the Chief may be guided by Appendix III-A. Where water supplies available for fire protection do not meet the requirements of Appendix III-A, an approved (approved means as approved by the Fire Chief) automatic fire sprinkler system installed throughout the building will be an acceptable alternate to all or a portion of the water supply required, as determined by the Chief, provided that a sprinkler system is not otherwise required by this code or the Building Code.

Specific findings: The UFC allows the use of alternate materials or methods of protection for regulatory compliance. One of the most common alternatives is the installation of automatic fire sprinklers in a building if the fire protection water supplies available do not meet the requirements of the Fire Code. This amendment simplifies the process for the customer. With this amendment, the installation of a sprinkler system is offered as an option if adequate fire protection water is not available and eliminates the need for an alternate materials application and submittal to the Fire Chief.

**~~15.44.270 15.44.230 Section 1003.1.2 amended—Fire extinguishing system standards.~~**

Section 1003.1.2 is amended to read as follows:

**1003.1.2 Standards.** Fire extinguishing systems shall comply with the Building Code. Fire sprinkler systems required by the Fire Code, as amended, shall be installed in accordance with National Fire Protection Association (NFPA) Standards, as referenced in the Building Code, and Santa Clara County Fire Department Standards.



Specific findings: This amendment provides that, in addition to the requirements of the Building Code, automatic fire sprinkler systems must comply with Santa Clara County Fire Department standards. Santa Clara County Fire Department standards apply to specific, technical fire sprinkler installation issues that are either not addressed in the Building Code Standard or are left to the discretion of the Santa Clara County Fire Department. Example: the location of Santa Clara County Fire Department sprinkler connections.

**15.44.280 Monitoring of Other Approved Fire Extinguishing Systems.**

*Section 1003.1.3 is added to read as follows:*

**1003.1.3 Monitoring of Other Approved Fire Extinguishing Systems.** *When a fire alarm system or fire sprinkler monitoring system is installed in a building, the system shall monitor all fire extinguishing systems including, but not limited to, commercial kitchen extinguishing systems, clean agent systems, CO2 systems, dry chemical and foam systems. Activation of the fire extinguishing system shall send an alarm signal and initiate the alarm signaling devices.*

*Specific Finding: The California Fire Code does not require that fire suppression systems, other than fire sprinkler systems, be remotely monitored for system activation. Therefore, other types of fire suppression systems such as a kitchen hood protection system, could activate due to a fire but the fire department would not be immediately notified. This amendment requires that if sprinkler system monitoring is provided, other suppression systems in the building are also to be monitored so as not to cause a delay in fire department response. A delay in implementing suppression operations could result in the intensification of the fire, which could overwhelm local fire suppression resources and require mutual aid assistance. The City of Morgan Hill is geographically isolated from adjacent municipalities, therefore, mutual aid response time would be extended potentially resulting in more extensive fire damage.*

**15.44.290 ~~15.44.240 Section 1003.2.2 amended~~ Fire sprinklers required.**

Section 1003.2.2 is amended to read as follows:

**1003.2.2 Fire sprinklers required.** An automatic fire sprinkler system shall be installed and maintained in all new construction regardless of floor area or occupancy type.

**EXCEPTIONS:**

1. Group R division 3 one and two family dwellings that are not located in the Hazardous Fire Area and not exceeding 4500 square feet total floor area. The



Developer/Contractor/Owner Builder shall provide an automatic fire sprinkler system as an option to the buyer.

2. Group ~~U-1~~ and ~~U-2~~ occupancies *that are not located in the Hazardous Fire Area and do not exceed 4500 square feet.*

All portions of existing non-sprinklered buildings shall be sprinklered if any one of the following conditions apply:

- ~~— (a) An addition which exceeds fifty percent (50%) of the original permitted square footage of the structure.~~
- ~~— (b) An alteration or repair which exceeds fifty percent (50%) of the value of the original permitted structure.~~
- ~~— (c) An addition which exceeds two thousand (2,000) square feet of the original permitted structure.~~
- ~~— (d) Any change of occupancy use.~~

(a) *An addition to a commercial building which exceeds fifty percent (50%) of the original permitted square footage of the structure.*

(b) *An alteration or repair to a commercial building which exceeds fifty (50%) of the value of the original permitted structure.*

(c) *An addition to a commercial building which exceeds two thousand (2,000) square feet of the original permitted structure.*

(d) *Any change of occupancy type for a commercial building.*

(e) *An addition to a Group R Division 3 one and two family dwelling or Group U occupancy that is located in the Hazardous Fire Area and the addition exceeds 500 square feet.*

(f) *An addition to a Group R Division 3 one and two family dwelling or Group U occupancy that is not located in the Hazardous Fire Area and the addition increases the total floor area of the original permitted square footage of the structure (including garage areas) to more than 4500 square feet.*



***Specific Finding:*** This amendment existed under the previous city Fire Code and is carried over to the new code adoption. It requires all new commercial buildings and large or hillside-located single-family residences to be equipped with fire sprinklers. The category of building that the model UFC requires sprinklers to be installed in is very limited and accounts for a small percentage of the actual type and size of buildings that are typically constructed within the city. This amendment would help reduce overall fire risk to the community. The City of Morgan Hill is fairly isolated from other large metropolitan areas and has active seismic fault lines running through and/or adjacent to it. Due to the geological area, Morgan Hill has had major earthquakes, and topographically Morgan Hill has steep hillside development where a long response time exists for emergency vehicles. The city foothills cause many problems for firefighters including long response times, inadequate water supply and unlimited fuel. The city is in a region which experiences high winds and low humidity during summer months. Winter rains promote the growth of grass and brush. This vegetation presents heavy dry fuel loads in the summer months. The conditions are conducive to the ready ignition, propagation and spread of grass, brush and structure fires. Fog, heavy rains, mud slides and earthquakes are other common occurrences which negatively affect the ability of the city's public safety resources to respond to emergency situations. The topography of Morgan Hill has hillside homes on each side of the city with long response time for safety equipment. The city is in a Zone 4 seismic activity classification, which is the highest classification. Many traffic corridors such as Highway 101 and Monterey Road, Southern Pacific Railroad, related bridges, underpasses and crossings are subject to obstruction in the event of an earthquake, traffic accident, hazardous material spill or other disaster. ***The City of Morgan Hill has many residential areas located in the hillside Hazardous Fire Area where roads are steep and narrow and warm temperatures during the summer months create conditions which are particularly conducive to the ignition and spread of grass and brush fires. Response time to a fire in a hillside home is generally extended, therefore, larger fires can develop and potentially spread to the wildland area and involve other homes. Additionally, the City of Morgan Hill is geographically isolated from adjacent municipalities. In the event of a large commercial structure fire, locally available fire resources are limited and mutual aid response would be needed. However, the response time of such outside assistance will be extended, potentially resulting in more extensive fire damage. Fire sprinklers will completely extinguish or control fires until such time that local suppression crews arrive thereby reducing the need for resources outside of the City.*** Any of the above factors could quickly exhaust the department's resources and prevent the assistance of mutual aid resources. Therefore, better management of the fire protection risks through this amendment is necessitated as fire sprinklers will help control fires until such time that emergency crews arrive.

**15.44.300      Immersion Heaters.**

***Section 1107.3 is added to read as follows:***

***1107.3 Immersion heaters. All electrical immersion heaters used in dip tanks, sinks, vats and similar operations shall be provided with approved over-temperature***



*controls and low liquid level electrical disconnects. Manual reset of required protection devices shall be provided.*

*Specific Finding: This amendment requires that over-temperature controls and low liquid level disconnects be provided to prevent fires from occurring when electrical immersion heaters are used in dip tanks, sinks, vats and similar operations. Fires can start if the liquid level in the tank becomes too hot or if the liquid level is too low. These operations are typically found in industrial buildings where flammable liquids and/or hazardous materials are used and stored. Fires involving these materials are generally more intense and require extensive fire suppression resources which would have to come from other municipalities. Response for resources outside of the City would be delayed due to the City of Morgan Hill's isolated geographic location potentially resulting in more extensive fire damage.*

**15.44.310      *Portable Fueled Open-Flame Heating Appliances.***

*Section 1109.3.1 is added to read as follows:*

*1109.3.1 Portable Fueled Open-Flame Heating Appliances. Portable fueled open-flame heating devices shall be approved for use by the Chief.*

**15.44.320      *Emergency Plans.***

*Section 1303.4.4 is added to read as follows:*

*1303.4.4 Cabinets. In large commercial, industrial or residential complexes the Chief may require the Emergency Plan and the HMMP to be in locked cabinets at an approved Location.*

**15.44.330      *Protected aboveground tanks.***

*Section 5202.3.7.1 is amended to read as follows:*

*5202.3.7.1 Size. Primary tanks of protected aboveground tanks shall not exceed a 2,000 gallon individual or 6,000 gallon aggregate capacity. Tank installations having the maximum allowable aggregate capacity shall be separated from other installation of protected tanks not less than 100 feet.*



***Specific Finding: This amendment limits the size of aboveground flammable and combustible liquid tanks for dispensing fuel to 2,000 gallon individual and 6,000 gallon aggregate. The California Fire Code (CFC) allows 12,000 gallon individual and 48,000 gallon aggregate installations. If a fire is involved with the larger tank sizes allowed by the CFC, additional fire suppression resources beyond those available in the City would be needed to control fire exposure to the tank(s) or to extinguish a fire involving burning fuel. Additional fire suppression resources would have to come from other municipalities and would be delayed due to the City of Morgan Hill's isolated geographic location.***

**15.44.340      Refrigeration Systems.**

***Section 6301 is amended to read as follows:***

***SECTION 6301 - SCOPE***

***Refrigeration unit and system installations having a refrigerant circuit containing more than 220 pounds (100 kg) of Group A1 or 30 pounds (13.6 kg) of any other group refrigerant shall be in accordance with Article 63 and the Mechanical Code. See Appendix VI-J for refrigerant group descriptions. See also Sections 8001.1.2, 8001.16.7, and 8002.***

***EXCEPTION: The Chief is authorized to exempt temporary or portable installations.***

**15.44.350      Refrigeration Definitions.**

***Section 6303 is amended to read as follows:***

***SECTION 6303 – DEFINITIONS***

***For definitions of IMMEDIATELY DANGEROUS TO LIFE AND HEALTH (IDLH), LOWER FLAMMABILITY LIMIT (LFL), PERMISSIBLE EXPOSURE LIMIT (PEL) AND REFRIGERANT AND REFRIGERANT CIRCUIT, see Article 2. For refrigerant groups, see Appendix VI – J.***

**15.44.360      Battery System Ventilation.**

***Section 6404.6 is amended to read as follows:***

***6404.6 Ventilation. Ventilation shall be provided in accordance with the Mechanical Code and the following:***



1. *The ventilation system shall be designed to limit the maximum concentration of hydrogen to 1.0 percent of the total volume of the room in accordance with nationally recognized standards, or*

2. *Continuous ventilation shall be provided at a rate of not less than 1 cubic foot per minute per square foot (5.1 cubic meter per second per square meter) of floor area of the room.*

3. *Failure of the ventilation system shall initiate a local alarm and transmit a signal to a constantly attended station or automatically disengage the charging system.*

*Specific Finding: This amendment requires that an alarm for battery charging ventilation system failure be transmitted to a constantly attended location. If the ventilation system fails without such notification, a build up of hydrogen gas can occur and a resulting explosion could cause extensive damage which would overwhelm the local fire resources. Mutual aid resources would be delayed due to the City of Morgan Hill's isolated geographic location potentially resulting in additional damage from uncontrolled fires.*

**~~15.44.370 15.44.250 Section 7901.3.2 amended~~—Flammable and combustible liquids—Plans.**

Section 7901.3.2 is amended to read as follows:

**7901.3.2 Plans.** Plans shall be submitted with each application for a permit to store liquids outside of buildings in drums or tanks. The plans shall indicate the method of storage, quantities to be stored, distances from buildings and property lines, accessways, fire-protection facilities, and provisions for spill control and secondary containment.

Specific findings: The UFC permits up to five thousand gallons of flammable or combustible liquids to be stored without requiring plans for such a permit. This amendment requires plans for any amount of storage to help ensure that adequate fire safety and environmental protection are provided whenever such storage occurs. The specific findings of Section ~~15.44.290 15.44.240~~ are hereby incorporated by reference.

**~~15.44.380 15.44.260 Section 7901.13 added~~—Flammable and combustible liquids--Monitoring.**

Section ~~7901.14 7901.13~~ is added to read as follows:

**7901.14 ~~7901.13~~ Monitoring.** Monitoring of flammable and combustible liquid storage/use systems shall be provided on a regular or continuous basis. The monitoring system and its frequency shall be included in the *Hazardous Materials Management*



Business Plan if otherwise required or shall be in writing for approval by the Chief. Monitoring methods may include but are not limited to the following;

1. Visual inspection, ~~on weekly or more frequent basis. (requires trained personnel and documentation)~~ **no less than monthly.**
2. Continuous leak detection and alarm system.
3. Any system which will provide continuous, reliable monitoring of the primary container(s) capable of alerting occupants to an alarm or trouble condition; all systems are subject to approval by the Chief.

Specific findings: The *California Fire Code* ~~UFC~~ does not require monitoring of flammable or combustible liquid storage tanks or systems where the quantity of such liquids is less than one thousand gallons. Leaks of vessels under one thousand gallons may go undetected indefinitely without a method of monitoring **and a large, intense fire could occur from the leaked material. A flammable or combustible liquid fire involving several hundred gallons could quickly overwhelm local fire suppression resources. Outside mutual aid resources would be delayed due to the City of Morgan Hill's isolated geographic location resulting in more extensive damage from an uncontrolled fire.** Additionally, this amendment is necessary for consistency with the adopted hazardous materials storage ordinance which does require such monitoring.

**~~15.44.390 15.44.270 Section 7901.14 added~~ Flammable and combustible liquids--Containment requirements.**

Section ~~7901.15~~ **7901.14** is added to read as follows:

**7901.15 7901.14 Containment requirements.** A containment system shall be required for all flammable and combustible liquids. Construction shall be substantial, capable of safely and securely containing a sudden release without discharge. Design criteria shall be performance oriented and constructed of compatible materials to resist degradation and provide structural and functional integrity for a period of time reasonably necessary to ensure detection, mitigation, and repair of the primary system. The Chief may require outside containment areas to be covered with a roof or canopy for protection from the environment.

Specific findings: The *California Fire Code* ~~UFC~~ does not provide specific design criteria for secondary containment systems. This amendment specifies what the performance measures will be for containment design. **If a leak from a flammable or combustible liquid tank or piping is not properly contained, the material could spread to other areas and, if ignited, involve other tanks and containers. Such a fire could quickly overwhelm local fire suppression resources. Outside mutual aid resources would be delayed due to the City of Morgan Hill's isolated geographic location resulting in more extensive damage from an uncontrolled fire.**



**~~15.44.400 15.44.280 Section 7902.2.2.1 amended—~~Flammable and combustible liquids—~~Tank Locations. where aboveground tanks are prohibited~~**

Section 7902.2.2.1 is amended to read as follows:

**7902.2.2.1 Locations where above ground tanks are prohibited.** The storage of Class I, II and III-A flammable or combustible liquids in aboveground tanks outside of buildings is ~~permitted only in locations not prohibited by this ordinance, or as otherwise approved by the Chief, and shall be installed as follows:~~ **prohibited within the limits established by law as the limits of districts in which such storage is prohibited.**

**Exceptions:** 1. Double wall steel aboveground tanks may be used for the storage of diesel ~~fuel Class II liquids, including integral diesel fuel storage tanks for generators or fire pumps where approved by the chief. which are~~ **The tanks shall be listed and limited to an individual or aggregate a capacity of 660 gallons. Such tanks shall be located a minimum of ten (10) feet from any building or property line of a property which is or can be built upon, unless protected by a two (2) hour fire resistive wall, without openings, that extends not less than 30 inches above and to the sides of the tank. and a minimum of twenty (20) feet from a property line which is or can be built upon.**

2. Protected aboveground storage tanks may be used ~~for storing to store diesel fuel used to for power generators or fire pumps where approved by the chief. Such tanks shall not exceed 4,000 gallons individual capacity and 16,000 gallons aggregate capacity. Tanks with capacities of 661 – 4,000 gallons shall be located a minimum of ten (10) feet from any building and fifteen (15) feet from a property line of a property which is or can be built upon, unless protected by a two (2) hour fire resistive wall, without openings, that extends not less than 30 inches above and to the sides of the tank. which do not exceed 4,000 gallons individual capacity or 16,000 gallon aggregate capacity. Such tanks shall be designed and installed in accordance with Appendix II-F as amended.~~

3. **When approved by the fire chief, aboveground storage tanks may be used for dispensing fuel for motor vehicles. Such tanks shall be installed and maintained in accordance with Article 52.** ~~The storage of class I and II liquids in protected aboveground storage tanks used for dispensing fuel for motor vehicles when such tanks are approved by the Fire Chief, and are installed and maintained in accordance with Article 79 and Appendix II-F as amended.~~

~~Specific findings: The UFC allows local jurisdictions to determine and specify in which portions of the city, if any, the aboveground storage of flammable or combustible liquids will be allowed. Although such aboveground storage is generally prohibited in commercially zoned areas, this amendment provides for limited amounts of such storage in specific tanks for specific needs. As an example, this amendment will allow the storage of diesel fuel for emergency generators which, in recent years, has been deemed highly~~



~~desirable by high tech companies to ensure production and/or services will not be impacted by power failures.~~

***Specific Finding: This amendment will allow limited amounts of aboveground storage of flammable and combustible liquids for specific needs such as the storage of diesel fuel for emergency generators. (Generators have been deemed highly desirable by many companies to ensure production and/or services will not be impacted by power failures.) However, the amount and methods of storage must be regulated to maintain fire safety. If a fire is involved with large or improperly located tanks, fire suppression resources beyond those available in the City would be needed to control fire exposure to the tank(s) or to extinguish a fire involving burning fuel. Mutual aid fire suppression resources would have to come from other municipalities and would be delayed due to the City of Morgan Hill's isolated geographic location which could potentially cause more extensive fire damage.***

***Specific Finding: The California Fire Code (CFC) historically contained minimal requirements for hazardous materials and toxic gases. These materials are common in commercial research, development and manufacturing companies throughout Santa Clara County. As a result, the City of Morgan Hill (and many other cities in the County) adopted a Hazardous Materials Storage Ordinance and Toxic Gas Ordinance to safely regulate these materials. During the last several years, the CFC has significantly improved in the regulation of hazardous materials and toxic gases, however, there are inconsistencies between the existing Hazardous Materials/Toxic Gas provisions in the City's Municipal Code and the 2001 CFC with respect to regulating these materials.***

***The following amendments modify the hazardous materials and toxic gas provisions of Article 80 of the CFC to be consistent with those found in the City's Municipal Code. The amendments are considered to be reasonably necessary to prevent or contain hazardous materials and/or toxic gas related emergency events so as not to exceed the response capabilities of the fire department. The City of Morgan Hill is geographically isolated from neighboring municipalities, therefore, any response of mutual aid fire resources would be extended which could adversely affect the outcome of the event.***

#### **15.44.410 Hazardous Materials Permits.**

***Section 8001.3.2 is amended to read as follows:***

***8001.3.2 Hazardous materials management plan. When required by the Chief, each application for a permit shall include a hazardous materials management plan (HMMP). The location of the HMMP shall be posted adjacent to permits when an HMMP is provided. The HMMP shall include a facility site plan designating the following:***

- 1. Storage and use areas,***
- 2. Maximum amount of each material stored or used in each area,***



3. *Range of container sizes,*
4. *Locations of emergency isolation and mitigation valves and devices,*
5. *Product conveying piping containing liquids or gases, other than utility-owned fuel gas lines and low-pressure fuel gas lines,*
6. *On and off positions of valves for valves which are of the self-indicating type, and*
7. *Storage plan showing the intended storage arrangement, including the location and dimensions of aisles.*

*The plans shall be legible and approximately to scale. Separate distribution systems are allowed to be shown on separate pages. The applicant may use a copy of an up to date Hazardous Materials Management Plan, which has been approved under Health and Safety Code, Chapter 6.95, Sections 25500 through 25545, and the regulations adopted there under, to satisfy the requirements for an HMMP.*

**15.44.420 Hazardous Materials Inventory Statement .**

*Section 8001.3.3 is amended to read as follows:*

*8001.3.3 Hazardous materials inventory statement. When required by the Chief, owners or operators of storage/use facilities shall submit a hazardous materials inventory statement (HMIS). The HMIS shall include the information required for a hazardous materials inventory statement prepared under Health and Safety Code, Chapter 6.95, Sections 25500 through 25545, and Title 19, Division 2, Chapter 3. A hazardous materials/waste registration form may be submitted for materials below the threshold limit of Chapter 6.95, Sections 25500 through 25545, and Title 19, Division 2, Chapter 3.*

**15.44.430 Systems, Equipment and Processes – Design and Construction.**

*Section 8001.4.3.2 is amended to read as follows:*

*8001.4.3.2 Design and construction. Piping, tubing, valves, fittings and related components used for hazardous materials shall be in accordance with the following:*

1. *Piping, tubing, valves, fittings and related components shall be designed and fabricated from materials compatible with the material to be contained and shall be of adequate strength and durability to withstand the pressure, structural and seismic stress, and exposure to which they are subject,*
2. *Piping and tubing shall be identified in accordance with nationally recognized standards (see Article 90, Standard a.2.1) to indicate the material conveyed,*



*3. Emergency shutoff valves shall be identified and the location shall be clearly visible and indicated by means of a sign, and*

*4. Backflow-prevention or check valves shall be provided when the backflow of hazardous materials could create a hazardous condition or cause the unauthorized discharge of hazardous materials.*

*5. Secondary containment or equivalent protection from spills shall be provided for piping for liquid hazardous materials and for highly toxic and toxic corrosive gases above permitted amounts. Secondary containment includes, but is not limited to double walled piping.*

*EXCEPTIONS: Secondary containment is not required for toxic corrosive gases if the piping is constructed of inert materials, or for piping under sub-atmospheric conditions if the piping is equipped with an alarm and fail-safe-to-close valve activated by a loss of vacuum.*

*6. Piping and tubing used for the transmission of toxic gases shall have welded connections throughout unless an exhausted enclosure is provided.*

*7. Expansion chambers shall be provided between valves whenever the regulated gas may be subjected to thermal expansion. Chambers shall be sized to provide protection for piping and instrumentation and to accommodate the expansion of regulated materials.*

**15.44.440 Piping for Health Hazard Materials.**

*Section 8001.4.3.3 is amended to read as follows:*

*8001.4.3.3 Additional regulations for piping for health hazard materials. Supply piping and tubing for gases and liquids having a health hazard ranking of 3 or 4 in accordance with UFC Standard 79-3 shall also be in accordance with the following:*

*1. Piping and tubing utilized for the transmission of highly toxic or toxic material shall have welded or brazed connections throughout unless an exhausted enclosure is provided if the material is a gas, or the piping is provided with a receptor for containment if the material is a liquid,*

*2. Piping and tubing shall not be located within corridors, within any portion of a means of egress required to be enclosed in fire-resistive construction or in concealed spaces in areas not classified as Group H Occupancies,*

*EXCEPTION: Piping and tubing within the space defined by the walls of corridors and floor or roof above or in concealed space above other occupancies when*



*installed in accordance with the Building Code as required for semi-conductor fabrication facilities classified as Group H Occupancies.*

*3. Where gases or liquids are carried in pressurized piping above 15 psig (103.4 kPa), excess flow control shall be provided. Where the piping originates from within a hazardous material storage room or area, the excess flow control shall be located within the storage room or area. Where the piping originates from a bulk source, the excess flow control shall be located as close to the bulk source as practical, and*

*4. Readily accessible manual or automatic remotely activated fail-safe emergency shutoff valves shall be installed on supply piping and tubing at the following locations:*

*4.1 The point of use, and*

*4.2 The tank, cylinder or bulk source.*

**15.44.450 Release of Hazardous Materials.**

*Section 8001.5.2.2 is amended to read as follows:*

*8001.5.2.2 Notification. The Chief shall be notified immediately when a release or an unauthorized discharge escapes containment or is contained but presents a threat to health or property or becomes reportable under state, federal or local regulations.*

**15.44.460 Identification signs.**

*Section 8001.7 is amended to read as follows:*

*8001.7 Identification Signs. Visible hazard identification signs as specified in UFC Standard 79-3 shall be placed on stationary aboveground tanks and at entrances to locations where hazardous materials are stored, dispensed, used or handled in quantities requiring a permit. Signs shall be provided at specific entrances and locations designated by the Chief.*

*EXCEPTION: The Chief may waive this requirement in special cases when consistent with safety if the owner or operator has submitted a hazardous materials management plan and hazardous materials inventory statement. See Sections 8001.3.2 and 8001.3.3.*

*Individual containers, cartons or packages shall be conspicuously marked or labeled in accordance with nationally recognized standards.*

*Hazardous materials shall be identified, at a minimum, with legible, readily visible labels in contrasting colors that clearly identify the material by generic chemical name(s), percentage concentration(s), and hazard class(es). Such labels shall be legible from a relatively safe distance dependent upon volume and use.*



***Rooms or cabinets containing compressed gases shall be conspicuously labeled COMPRESSED GAS.***

***Signs shall not be obscured or removed. Signs shall be in English as a primary language or in symbols allowed by this code. Signs shall be durable. The size, color and lettering shall be in accordance with nationally recognized standards.***

***15.44.470 Ventilation Ducting Labeling.***

***Section 8001.7.1 is added to read as follows:***

***8001.7.1 Ventilation ducting. Product conveying ducts for venting hazardous materials operations shall be labeled with the hazard class of the material being vented and the direction of flow.***

***15.44.480 Piping and Tubing Labeling.***

***Section 8001.7.2 is added to read as follows:***

***8001.7.2 "H" occupancies. In "H" occupancies, all piping and tubing may be required to be identified when there is any possibility of confusion with hazardous materials transport tubing or piping. Flow direction indicators are required.***

***15.44.490 Separation of Incompatible Materials.***

***Section 8001.11.8 is amended to read as follows:***

***8001.11.8 Separation of incompatible materials. Incompatible materials in storage and storage of materials incompatible with materials in use shall be separated. Separation shall be accomplished by:***

- 1. Segregating incompatible materials storage by a distance of not less than 20 feet (6096 mm),***
- 2. Isolating incompatible materials storage by a noncombustible partition extending not less than 18 inches (457.2 mm) above and to the sides of the stored material,***
- 3. Storing liquid and solid materials in hazardous materials storage cabinets (see Section 8001.3.2), or***



***4. Storing compressed gases in gas cabinets or exhausted enclosures in accordance with Sections 8003.3.1.3.2 and 8003.3.1.3.3.***

***Materials which are incompatible shall not be stored within the same cabinet or exhausted enclosure.***

***15.44.500 Monitoring of Hazardous Materials.***

***Section 8001.11.10 is added to read as follows:***

***8001.11.10 Monitoring. Monitoring of storage/use systems of liquid and solid hazardous materials shall be provided on a regular or continuous basis. The monitoring system and its frequency shall be included in the Business Plan if otherwise required or shall be in writing for approval by the Chief. Monitoring methods may include but are not limited to the following;***

***1. Visual inspection, no less than monthly.***

***2. Continuous leak detection and alarm system.***

***3. Any system which will provide continuous, reliable monitoring of the primary container(s) capable of alerting occupants to an alarm or trouble condition; all systems are subject to approval by the Chief.***

***15.44.510 Secondary Containment Requirements.***

***Section 8001.11.11 is added to read as follows:***

***8001.11.11 Secondary containment requirements. A containment system shall be required for all hazardous materials which are liquids or solids at normal temperature and pressure (NTP). Construction shall be substantial, capable of safely and securely containing a sudden release without discharge. Design criteria shall be performance oriented and constructed of compatible materials to resist degradation and provide structural and functional integrity for a period of time reasonably necessary to ensure detection, mitigation, and repair of the primary system. The Chief may require outside containment areas to be covered with a roof or canopy for protection from the environment.***

***15.44.520 Storage/Use System Closure.***

***Section 8001.13 is amended to read as follows:***

***8001.13 Facility and Storage/Use System Closure.***



**15.44.530 Temporarily Out-of-Service Facilities.**

*Section 8001.13.1 is amended to read as follows:*

**8001.13.1 Temporarily out-of-service facilities and storage/use systems. Facilities which are temporarily out of service shall continue to maintain a permit and be monitored and inspected.**

**15.44.540 Permanently Out-of-Service Facilities.**

*Section 8001.13.2 is amended to read as follows:*

**8001.13.2 Permanently out-of-service facilities and storage/use systems. Facilities for which a permit is not kept current or is not monitored and inspected on a regular basis shall be deemed to be permanently out of service and shall be closed in accordance with Section 8001.13.3.**

**15.44.550 Storage Termination Plan.**

*Section 8001.13.3 is amended to read as follows:*

**8001.13.3 Plan. The permit holder or applicant shall submit a plan to the fire department to terminate storage, dispensing, handling or use of hazardous materials at least 30 days prior to facility or storage/use system closure. The plan shall demonstrate that hazardous materials, which were stored, dispensed, handled or used in the facility, have been transported, disposed of or reused in a manner that eliminates the need for further maintenance and any threat to public health and safety. Such plan shall be submitted in accordance with Section 8001.3.1.**

**15.44.560 Highly Toxic Gases.**

*Section 8001.16.5 is added to read as follows:*

**8001.16.5 Highly Toxic Gases.**

**15.44.570 Highly Toxic Gas – Storage Indoors.**

*Section 8001.16.5.1 is added to read as follows:*



***8001.16.5.1 Indoor storage. Indoor storage of any amount of highly toxic gases shall be in accordance with Sections 8001.1 - 8001.15, 8001.16.5, 8001.16.6, 8001.16.7, 8003.3.1, and 8003.3.3.***

***15.44.580 Highly Toxic Gas – Storage Outdoors.***

***Section 8001.16.5.2 is added to read as follows:***

***8001.16.5.2 Outdoor storage. Outdoor storage of any amount of highly toxic gases shall be in accordance with Sections 8001.1 - 8001.15, 8001.16.5, 8001.16.6, 8001.16.7, 8003.3.2, and 8003.3.3.***

***15.44.590 Highly Toxic Gas – Use and Handling.***

***Section 8001.16.5.3 is added to read as follows:***

***8001.16.5.3 Indoor use and handling. Indoor use and handling of any amount of highly toxic gases shall be in accordance with Sections 8001.1 - 8001.15, 8001.16.5, 8001.16.6, 8001.16.7, 8004.1, 8004.2.3.7.1 – 8004.2.3.7.6, and 8004.4.3.***

***15.44.600 Highly Toxic Gas – Shut-Off Valves.***

***Section 8001.16.5.3.1 is added to read as follows:***

***8001.16.5.3.1 Automatic shut-off-valve. An automatic valve which is of a fail safe to close design shall be provided to shut off the supply of highly toxic gases for any of the following:***

- 1. Activation of a fire alarm system.***
- 2. Activation of the gas detection system.***
- 3. Failure of emergency power.***
- 4. Failure of primary containment.***
- 5. Seismic activity.***
- 6. Failure of required exhaust flow ventilation.***

***15.44.610 Highly Toxic Gas – Emergency Control Station Signals.***



*Section 8001.16.5.3.2 is added to read as follows:*

***8001.16.5.3.2 Emergency control station. Signals from emergency equipment used for highly toxic gases shall be transmitted to an emergency control station which is continually staffed by trained personnel.***

***15.44.620 Highly Toxic Gas – Outdoor Use.***

*Section 8001.16.5.4 is added to read as follows:*

***8001.16.5.4 Outdoor use. Outdoor use of any amount of highly toxic gases shall be in accordance with Sections 8001.1 - 8001.15, 8001.16.5, 8001.16.6, 8001.16.7, 8004.1, and 8004.3.5***

***15.44.630 Toxic and Highly Toxic Gases.***

*Section 8001.16.6 is added to read as follows:*

***8001.16.6 Toxic Gases Including Highly Toxic Gases.***

***15.44.640 Toxic Gases – Indoor Storage.***

*Section 8001.16.6.1 is added to read as follows:*

***8001.16.6.1 Indoor storage. Indoor storage of toxic gases in quantities exceeding 10 cu. ft. per control area shall be in accordance with Sections 8001.1 - 8001.15, 8001.16.6, 8001.16.7, 8003.3.1, and 8003.3.3.***

***15.44.650 Toxic Gases – Outdoor Storage.***

*Section 8001.16.6.2 is added to read as follows:*

***8001.16.6.2 Outdoor storage. Outdoor storage of toxic gases in amounts exceeding 10 cu. ft. per outdoor control area shall be in accordance with Sections 8001.1 - 8001.15, 8001.16.6, 8001.16.7, 8003.3.2, and 8003.3.3.***

***15.44.660 Toxic Gases – Indoor Use and Handling.***

*Section 8001.16.6.3 is added to read as follows:*



***8001.16.6.3 Indoor use and handling. Indoor use and handling of toxic gases in amounts exceeding 10 cu. ft. per control area shall be in accordance with Sections 8001.1 - 8001.15, 8001.16.6, 8001.16.7, 8004.1, 8004.2.3.7.1 – 8004.2.3.7.6, and 8004.4.3.***

***15.44.670 Toxic Gases – Seismic Shut-Off Valve.***

***Section 8001.16.6.3.1 is added to read as follows:***

***8001.16.6.3.1 Seismic shutoff valve. An automatic valve, which is of a fail safe to close design, shall be provided to shutoff the supply of gases.***

***15.44.680 Toxic Gases – Outdoor Use.***

***Section 8001.16.6.4 is added to read as follows:***

***8001.16.6.4 Outdoor use. Outdoor use of toxic gases in amounts exceeding 10 cu. ft. per outdoor control area shall be in accordance with Sections 8001.1 - 8001.15, 8001.16.6, 8001.16.7, 8004.1, and 8004.3.5.***

***15.44.690 Toxic Gases – Maximum Threshold Quantity.***

***Section 8001.16.6.5 is added to read as follows:***

***8001.16.6.5 Maximum threshold quantity. Toxic gases stored or used in quantities exceeding 500,000 cu. ft. in a single vessel per control area or outdoor control area shall comply with the additional requirements for highly toxic gases of Section 8001.16.5 of this code.***

***15.44.700 Moderately Toxic Gases.***

***Section 8001.16.6.7 is added to read as follows:***

***8001.16.6.7 Moderately Toxic Gases Including Those Used as Refrigerants, Toxic Gases and Highly Toxic Gases.***

***15.44.710 Moderately Toxic Gases – Indoor Storage.***

***Section 8001.16.7.1 is added to read as follows:***

***8001.16.7.1 Indoor storage. Indoor storage of moderately toxic gases in excess of 20 cu. ft. per area shall be bounded by a one-hour fire-resistive occupancy separation***



*and shall be in accordance with Sections 8001.1 - 8001.15, 8001.16.7, 8003.3.1.2, 8003.3.1.3, and 8003.3.3.*

**15.44.720      *Moderately Toxic Gases – Cylinder Leak Testing.***

*Section 8001.16.7.1.1 is added to read as follows:*

*8001.16.7.1.1 Cylinder leak testing. Cylinders shall be tested for leaks immediately upon delivery and again immediately prior to departure. Testing shall be approved by the Chief in accordance with appropriate nationally recognized industry standards and practices, if any. Appropriate remedial action shall be immediately undertaken when leaks are detected.*

**15.44.730      *Moderately Toxic Gases –Outdoor Storage.***

*Section 8001.16.7.2 is added to read as follows:*

*8001.16.7.2 Outdoor storage. Outdoor storage of moderately toxic gases in excess of 20 cu. ft. per outdoor area shall be in accordance with Sections 8001.1 - 8001.15, 8001.16.7, 8003.3.2, and 8003.3.3.*

**15.44.740      *Moderately Toxic Gases – Indoor Use.***

*Section 8001.16.7.3 is added to read as follows:*

*8001.16.7.3 Indoor use. Indoor use and handling of moderately toxic gases in excess of 20 cu. ft. per area shall be bounded by a one-hour fire-resistive occupancy separation and shall be in accordance with Sections 8001.1 - 8001.15, 8001.16.7, 8004.1, and 8004.2.3.7.1 – 8004.2.3.7.5.*

**15.44.750      *Moderately Toxic Gases – Purge System.***

*Section 8001.16.7.3.1 is added to read as follows:*

*8001.16.7.3.1 Inert gas purge system. Gas systems shall be provided with dedicated inert gas purge systems. A dedicated inert gas purge system may be used to purge more than one gas, provided the gases are compatible. Purge gas systems shall be located in an approved gas cabinet unless the system operates by vacuum demand or a check valve is supplied for the piping within the gas cabinet.*

**15.44.760      *Moderately Toxic Gases – Outdoor Use.***



*Section 8001.16.7.4 is added to read as follows:*

***8001.16.7.4 Outdoor use. Outdoor use of moderately toxic gases in excess of 20 cu. ft. per outdoor area shall be in accordance with Sections 8001.1 - 8001.15, 8001.16.7, and 8004.3.5.***

***15.44.770 Moderately Toxic Gases – Compliance with Toxic Gas Requirements.***

*Section 8001.16.7.5 is added to read as follows:*

***8001.16.7.5 Moderately toxic gases with a LC50 equal to or less than 3000 parts per million. Notwithstanding the hazard class definition in Section 214-M, moderately toxic gases with an LC50 less than 3000 parts per million shall additionally comply with the requirements for toxic gases in Section 8001.16.6 of this code.***

***15.44.780 Moderately Toxic Gases – Maximum Threshold Quantity.***

*Section 8001.16.7.6 is added to read as follows:*

***8001.16.7.6 Maximum threshold quantity. Moderately toxic gases stored or used in quantities exceeding 500,000 cu. ft. in a single vessel in an indoor or outdoor use area shall comply with the additional requirements for toxic gases of Section 8001.16.6 of this code.***

***Moderately toxic gases stored or used in quantities exceeding 1,000,000 cu. ft. in a single vessel per area bounded by no less than a one-hour fire resistive occupancy separation or outdoor use area shall also comply with the additional requirements for highly toxic gases of Sections 8001.4.3.3, 8001.16.5, and 8001.16.6 of this code.***

***15.44.790 Fire Protection for Workstations and Exhaust Ducts.***

*Section 8001.17 is added to read as follows:*

***8001.17 Fire Protection for Workstations and Exhaust Ducts***

***15.44.800 Fire Protection for Workstations.***

*Section 8001.17.1 is added to read as follows:*

***8001.17.1 Fire Protection Systems for Workstations. When the building is protected by an automatic fire protection system, an approved fire protection system***



*shall be provided for all workstations where hazardous materials are dispensed, stored or used. An automatic fire sprinkler head shall be installed within each branch exhaust connection or within individual plenums of workstations of combustible construction. The automatic fire sprinkler system head in the exhaust connection or plenum shall be located not more than 2 feet (610 mm) from the point of the duct connection or the connection to the plenum. When necessary to prevent corrosion, the automatic fire sprinkler head and connecting piping in the duct shall be coated with approved or listed corrosion-resistant materials. The automatic fire sprinkler system head shall be accessible for periodic inspection.*

**EXCEPTIONS:**

*1. Approved alternate automatic fire-extinguishing systems are allowed. Activation of such systems shall deactivate the related processing equipment.*

*2. Process equipment, which operates at temperatures exceeding 932 degrees F (500 degrees C) and which is provided with automatic shutdown capabilities for hazardous materials.*

*3. Exhaust ducts less than 10 inches (254 mm) in diameter.*

**15.44.810 Hazardous Materials – Storage In Excess of Exempt Amounts.**

*Section 8003.1.1 is amended to read as follows:*

*8003.1.1 Applicability. Storage of hazardous materials where the aggregate quantity is in excess of the exempt amounts set forth in Section 8001.15 shall be in accordance with Sections 8001 and 8003. Storage of hazardous materials where the aggregate quantity does not exceed the exempt amounts set forth in Section 8001.15 shall be in accordance with Section 8001. For highly toxic, toxic, and moderately toxic gases, see also Sections 8001.16 and 8003.3. For display and storage in retail and wholesale sales occupancies, see Section 8001.14.*

**15.44.820 Hazardous Materials – Spill Control for Liquids.**

*Section 8003.1.3.2 is amended to read as follows:*

*8003.1.3.2 Spill control for hazardous materials liquids. Rooms, buildings or areas used for the storage of hazardous materials liquids shall be provided with spill control to prevent the flow of liquids to adjoining areas. Floors in indoor locations and similar surfaces in outdoor locations shall be constructed to contain a spill from the largest single vessel by one of the following methods:*



*1. Liquid-tight sloped or recessed floors in indoor locations or similar areas in outdoor locations,*

*2. Liquid-tight floors in indoor locations or similar areas in outdoor locations provided with liquid-tight raised or recessed sills or dikes, or*

*3. Sumps and collection systems.*

*Except for surfacing, the floors, sills, dikes, sumps and collection systems shall be constructed of noncombustible material, and the liquid-tight seal shall be compatible with the material stored. When liquid-tight sills or dikes are provided, they are not required at perimeter openings, which are provided with an open-grate trench across the opening that connects to an approved collection system.*

**15.44.830 Hazardous Materials – Secondary Containment for Liquids and Solids.**

*Section 8003.1.3.3 is amended to read as follows:*

*8003.1.3.3 Secondary containment for hazardous materials liquids and solids. Buildings, rooms or areas used for the storage of hazardous materials liquids or solids shall be provided with secondary containment in accordance with this section.*

*The building, room or area shall contain or drain the hazardous materials and fire-protection water through the use of one of the following methods:*

*1. Liquid-tight sloped or recessed floors in indoor locations or similar areas in outdoor locations,*

*2. Liquid-tight floors in indoor locations or similar areas in outdoor locations provided with liquid-tight raised or recessed sills or dikes,*

*3. Sumps and collection systems, or*

*4. Drainage systems leading to an approved location.*

*Incompatible materials shall be separated from each other in the secondary containment system.*

*Secondary containment for indoor storage areas shall be designed to contain a spill from the largest vessel plus the design flow volume of fire-protection water calculated to discharge from the fire-extinguishing system over the minimum required system design area or area of the room or area in which the storage is located, whichever is smaller, for a period of 20 minutes.*

*Secondary containment for outdoor storage areas shall be designed to contain a spill from the largest individual vessel. If the area is open to rainfall, secondary*



*containment shall be designed to include the volume of a 24-hour rainfall as determined by a 25-year storm and provisions shall be made to drain accumulations of groundwater and rainwater.*

*A monitoring method shall be provided to detect hazardous materials in the secondary containment system. The monitoring method is allowed to be visual inspection of the primary or secondary containment, or other approved means. Where secondary containment is subject to the intrusion of water, a monitoring method for detecting water shall be provided. When monitoring devices are provided, they shall be connected to distinct visual or audible alarms.*

*Drainage systems shall be in accordance with the Plumbing Code and the following:*

*1. The slope of floors in indoor locations or similar areas in outdoor locations to drains shall not be less than 1 percent,*

*2. Drains from indoor storage areas shall be sized to carry the volume of the fire-protection water as determined by the design density discharged from the automatic fire-extinguishing system over the minimum required system design area or area of the room or area in which the storage is located, whichever is smaller,*

*3. Drains from outdoor storage areas shall be sized to carry the volume of the fire flow and the volume of a 24-hour rainfall as determined by a 25-year storm,*

*4. Materials of construction for drainage systems shall be compatible with the materials stored,*

*5. Incompatible materials shall be separated from each other in the drainage system, and*

*6. Drains shall terminate in an approved location away from buildings, valves, means of egress, fire access roadways, adjoining property and storm drains.*

**15.44.840      *TABLE 8003.1-A – REQUIRED SECONDARY CONTAINMENT - HAZARDOUS MATERIALS SOLIDS AND LIQUIDS STORAGE.***

*Table 8003.1-A is amended to read as follows:*

*Table 8003.1-A is deleted*

**15.44.850      *Toxic and Highly Toxic Compressed Gases – Indoor Storage.***

*Section 8003.3.1.1 is amended to read as follows:*



***8003.3.1.1 General. Indoor storage of toxic gases exceeding 10 cu. ft. per control area and any amount of highly toxic compressed gases shall be in accordance with Sections 8001.16.5, 8001.16.6, 8001.16.7, 8003.3.1 and 8003.3.3.***

***Indoor storage of moderately toxic gases in excess of 20 cu. ft. per area bounded by no less than a one-hour fire-resistive occupancy separation shall be in accordance with Sections 8001.16.7, 8003.3.1.2, 8003.3.1.3, and 8003.3.3.***

***Indoor storage of toxic and highly toxic compressed gases in amounts exceeding the exempt amounts set forth in Section 8001.15 shall be in accordance with Sections 8001.16.5, 8001.16.6, 8001.16.7, 8003.1, 8003.3.1 and 8003.3.3.***

**15.44.860      *Toxic and Highly Toxic Compressed Gases – Treatment Systems.***

***Section 8003.3.1.3.5.1 is amended to read as follows:***

***8003.3.1.3.5.1 General. Treatment systems shall be utilized to handle the accidental release of gas. Treatment systems shall be utilized to process all exhaust ventilation to be discharged from gas cabinets, exhausted enclosures and gas rooms.***

**15.44.870      *Toxic and Highly Toxic Compressed Gases – Outdoor Storage.***

***Section 8003.3.2.1 is amended to read as follows:***

***8003.3.2.1 General. Outdoor storage of toxic gases exceeding 10 cu. ft. per control area and any amount of highly toxic compressed gases shall be in accordance with Sections 8001.16.5, 8001.16.6, 8001.16.7, 8003.3.2, and 8003.3.3.***

***Outdoor storage of moderately toxic gases in excess of 20 cu. ft. per outdoor area shall be in accordance with Sections 8001.1 - 8001.15, 8001.16.7, 8003.3.2 and 8003.3.3.***

***Outdoor storage of highly toxic or toxic compressed gases in amounts exceeding the exempt amounts set forth in Section 8001.15 shall be in accordance with Sections 8001.16.5, 8001.16.6, 8001.16.7, 8003.1, 8003.3.2 and 8003.3.3.***

**15.44.880      *Toxic and Highly Toxic Compressed Gases – Outdoor Storage Distances to Exposures.***

***Section 8003.3.2.2.1 is amended to read as follows:***



***8003.3.2.2.1 General. Outdoor storage of highly toxic or toxic compressed gases exceeding the exempt amounts set forth in Section 8001.15 shall comply with the Building Code and Section 8003.3.2.2.***

***15.44.890 Hazardous Materials – Use Dispensing and Handling***

***Section 8004.1.1 is amended to read as follows:***

***8004.1.1 Applicability. Use, dispensing and handling of hazardous materials where the aggregate quantity is in excess of the exempt amounts set forth in Section 8001.15 shall be in accordance with Sections 8001 and 8004.***

***EXCEPTIONS:***

***1. For stationary lead-acid battery systems used for standby power, emergency power or uninterrupted power supply, see Article 64.***

***2. Application of pesticide products registered with the United States Environmental Protection Agency.***

***Use, dispensing and handling of hazardous materials where the aggregate quantity does not exceed the exempt amounts set forth in Section 8001.15 shall be in accordance with Sections 8001.***

***Use, dispensing and handling of toxic gases exceeding 10 cu. ft. per control area and any amount of highly toxic compressed gases shall additionally be in accordance with sections 8004.1.6, 8004.1.7, 8004.1.8, 8004.1.10, 8004.1.11, 8004.2.3.7.1 – 8004.2.3.7.6, 8004.3.5 and 8004.4.3 except as otherwise noted.***

***Use, dispensing and handling of moderately toxic gases exceeding 20 cu. ft. per area bounded by no less than a one-hour fire-resistive occupancy separation or 20 cu. ft. per outdoor area gases shall additionally be in accordance with sections 8004.1.8, 8004.10, and 8004.2.3.7.1 – 8004.2.3.7.5 and 8004.3.5, except as otherwise noted.***

***For highly toxic, toxic, moderately toxic, flammable, oxidizing and pyrophoric gases, see also Section 8001.16. For requirements pertaining to oxidizing cryogenic fluids, see UFC Standard 80-2. For requirements pertaining to flammable cryogenic fluids, see UFC Standard 80-3. For requirements pertaining to inert cryogenic fluids, see UFC Standard 80-4.***

***15.44.900 Hazardous Materials Liquids Indoor Dispensing and Use In Open Systems – Spill Control.***

***Section 8004.2.2.5.1 is amended to read as follows:***



***8004.2.2.5.1 Spill control for hazardous materials liquids. Buildings, rooms or areas where hazardous materials liquids are dispensed into vessels or used in open systems shall be provided with spill control in accordance with Section 8003.1.3.2.***

***15.44.910 Hazardous Materials Liquids Indoor Dispensing and Use In Open Systems – Secondary Containment.***

***Section 8004.2.2.5.2 is amended to read as follows:***

***8004.2.2.5.2 Secondary containment for hazardous materials liquids. Buildings, rooms or areas where hazardous materials liquids are dispensed or used in open systems shall be provided with secondary containment in accordance with Section 8003.1.3.3.***

***15.44.920 Hazardous Materials Liquids Indoor Dispensing and Use – Spill Control.***

***Section 8004.2.3.6.1 is amended to read as follows:***

***8004.2.3.6.1 Spill control for hazardous materials liquids. Buildings, rooms or areas where hazardous materials liquids are used shall be provided with spill control in accordance with Section 8003.1.3.2.***

***15.44.930 Hazardous Materials Liquids Indoor Dispensing and Use – Secondary Containment.***

***Section 8004.2.3.6.2 is amended to read as follows:***

***8004.2.3.6.2 Secondary containment for hazardous materials liquids. Buildings, rooms or areas where hazardous materials liquids are used in vessels or systems shall be provided with secondary containment in accordance with Section 8003.1.3.3.***

***15.44.940 Hazardous Materials Outdoor Dispensing and Use – Quantities Not Exceeding Exempt Amounts.***

***Section 8004.3.1.2 is amended to read as follows:***

***8004.3.1.2 Quantities not exceeding exempt amounts. Outdoor dispensing or use of hazardous materials where the aggregate quantity does not exceed the exempt amounts specified in Tables 8001.15-C and 8001.15-D are not required to be in accordance with Section 8004 except as provided in Section 8004.3.***



*Outdoor dispensing or use of moderately toxic gases exceeding 20 cu. ft. per outdoor area, toxic gases exceeding 10 cu. ft. per control area and any amount of highly toxic compressed gases shall be in accordance with Sections 8001.16.5, 8001.16.6, 8001.16.7, and 8004.3.5 except as otherwise noted.*

**15.44.950      *Hazardous Materials Liquids Outdoor Dispensing and Use – Spill Control for Open Systems.***

*Section 8004.3.3.1.1 is amended to read as follows:*

*8004.3.3.1.1 Spill control for hazardous materials liquids. Outdoor areas where hazardous materials liquids are dispensed or used in open systems shall be provided with spill control in accordance with Section 8003.1.3.2.*

**15.44.960      *Hazardous Materials Liquids Outdoor Dispensing and Use – Secondary Containment for Open Systems.***

*Section 8004.3.3.1.2 is amended to read as follows:*

*8004.3.3.1.2 Secondary containment for hazardous materials liquids. Outdoor areas where hazardous materials liquids are dispensed or used in open systems shall be provided with secondary containment in accordance with Section 8003.1.3.3.*

**15.44.970      *Hazardous Materials Liquids Outdoor Dispensing and Use – Spill Control for Closed Systems.***

*Section 8004.3.3.2.1 is amended to read as follows:*

*8004.3.3.2.1 Spill control for hazardous materials liquids. Outdoor areas where hazardous materials liquids are used in closed systems shall be provided with spill control in accordance with Section 8003.1.3.2.*

**15.44.980      *Hazardous Materials Liquids Outdoor Dispensing and Use – Secondary Containment for Closed Systems.***

*Section 8004.3.3.2.2 is amended to read as follows:*

*8004.3.3.2.2 Secondary containment for hazardous materials liquids. Outdoor areas where hazardous materials liquids are dispensed or used in closed systems shall be provided with secondary containment in accordance with Section 8003.1.3.3.*



**15.44.990      *Special Requirements for Moderately Toxic, Toxic and Highly Toxic Compressed Gases.***

*Section 8004.3.5 is amended to read as follows:*

**8004.3.5 *Special requirements for moderately toxic, toxic and highly compressed gases.***

**15.44.1000      *Special Requirements for Moderately Toxic, Toxic and Highly Toxic Compressed Gases – Treatment systems.***

*Section 8004.3.5.4 is amended to read as follows:*

**8004.3.5.4 *Treatment systems. Treatment systems shall be provided in accordance with Section 8003.3.1.3.5.***

***EXCEPTION: Moderately toxic, toxic, and highly toxic gases where the aggregate quantity does not exceed the exempt amounts set forth in Tables 8001-15C and 8001-15D.***

**15.44.1010      *Hazardous Materials Handling.***

*Section 8004.4.3 is amended to read as follows:*

**8004.4.3 *Emergency alarm. When hazardous materials having a hazard ranking of 3 or 4 in accordance with UFC Standard 79-3, toxic gases exceeding 10 cu. ft. per control area and any amount of highly toxic compressed gases are transported through corridors or exit enclosures, there shall be an emergency telephone system, a local manual alarm station or an approved alarm-initiating device at not more than 150-foot (45 720 mm) intervals and at each exit and exit-access doorway throughout the transport route. The signal shall be relayed to an approved central, proprietary or remote station service or constantly attended on-site location and shall also initiate a local audible alarm.***

**15.44.1020      *TABLE 8004.2-A – REQUIRED SECONDARY CONTAINMENT - HAZARDOUS MATERIALS SOLIDS AND LIQUIDS USE.***

*Table 8004.2-A is amended to read as follows:*

*Table 8004.2-A is deleted*



~~15.44.1030 15.44.290 Section 8202.1 amended--~~Liquefied petroleum gases--  
Permits and plans.

Section 8202.1, third paragraph, is amended to read as follows:

**8202.1 Permits and plans.** Where a single container is over 125 gallons water capacity or the aggregate capacity of containers is over 125 gallons water capacity, the installer shall submit plans for such installations.

Specific findings: For the storage of LPG, the UFC requires a permit for a container of over one hundred twenty-five (125) gallons water capacity, however, the UFC doesn't require the submission of plans unless a single container is over two thousand (2000) gallons or the aggregate of all containers is in excess of four thousand (4000) gallons. This amendment requires installation plans for any tank or container that is required to be permitted. Plans will help ensure adequate compliance with fire safety regulations prior to permit issuance.

~~15.44.300 Section 4.1 amended Protection of aboveground tanks for motor  
vehicle fuel dispensing stations outside building Appendix II F.~~

~~—Section 4.1 of Appendix II F is amended to read as follows:~~

~~——4.1 General. Protected aboveground tanks shall be listed and shall meet the  
requirements specified in UFC Standard 79-7, UL 2085 and shall be labeled accordingly.~~

~~—Specific findings: The UFC does not require that aboveground tanks used for  
dispensing flammable or combustible liquids meet the requirements of Underwriters Labs  
(UL). The UL Standard requires additional design safeguards for such tanks thereby  
reducing the possibility of tank failure. This amendment requires that tanks additionally  
comply with UL Standards. (Ord. 1494 N.S. § 1 (part), 2000)~~

~~15.44.310 Section 4.3 amended Protection of aboveground tanks for motor  
vehicle fuel dispensing stations outside buildings Appendix II F.~~

Section 4.3 of Appendix II F is amended to read as follows:

~~——4.3 Size. Primary tanks shall not exceed a 2,000 gallon individual or 6,000 gallon  
aggregate capacity.~~

~~—Specific findings: The UFC allows aboveground tanks used for dispensing of  
flammable or combustible liquids to be up to twelve thousand gallons for a single tank  
and forty eight thousand gallons for the aggregate of all tanks. The Santa Clara County  
Fire Prevention Officers Association believes that these volumes are excessive and  
potentially hazardous. Single and aggregate amounts of two thousand and four thousand~~



~~gallons respectively are considered acceptable. This amendment limits the storage accordingly.~~

**15.44.1040 Fire Protection Plan Urban-Wildland Interface (UWI) Areas.**

*Article 86 is amended to read as follows:*

*Article 86 is deleted.*

**15.44.1050** ~~15.44.320~~ ~~Section 5~~ amended Fire hydrant locations and distribution. ~~Appendix III-B.~~

Section 5 of Appendix III-B is amended to read as follows:

**SECTION 5 – DISTRIBUTION OF FIRE HYDRANTS**

The average spacing between fire hydrants shall not exceed that listed in Table A-III-B-1.

EXCEPTION: The maximum spacing of hydrants in commercial areas shall be 250 feet.

Regardless of the average spacing, fire hydrants shall be located such that all points on streets and access roads adjacent to a building are within the distances listed in Table A-III-B-1.

Specific findings: ~~The UFC allows the spacing of fire hydrants in commercial areas to be up to five hundred feet. Long hose lays equates to more time elapsing prior to putting water on the fire. Because the city has limited local resources and outside agency response times are extended, closer spaced hydrants will help ensure that water is more readily available. This amendment requires that hydrant spacing in commercial areas is not less than two hundred fifty feet which will help result in having fires more quickly controlled and extinguished.~~ *The CFC allows the spacing of fire hydrants in commercial areas to be up to 500 feet. This equates to relatively long hose lays which results in more time elapsing prior to putting water on the fire. The City has limited local fire resources and mutual aid response times are extended due to the geographically isolated location of the City of Morgan Hill. This amendment requires that hydrant spacing in commercial areas not be less than 250 feet which will help result in having fires more quickly controlled and extinguished by local fire suppression resources.*

**15.44.1060** ~~15.44.330~~ ~~Section 16.3~~ added Suppression and control of hazardous fire areas--Appendix II-A.



Section 16.3 is added to Appendix II-A to read as follows:

**16.3 Firebreak Vegetation.** When brush or vegetation growth is removed and cleared away to provide a permanent firebreak as required by this section, suitable growth which will not form a means of rapidly transmitting fire shall be planted in such a manner so as to reduce the possibility of erosion.

Specific findings: The UFC section relative to hazardous fire areas in the hillside is silent on the matter of replacing vegetation that is cleared for defensible space, with other appropriate plantings to reduce erosion. This amendment addresses that issue.

~~15.44.1070 15.44.340 Section 25 added—Roof coverings in hazardous fire area—~~  
-Appendix II-A.

Section 25 is added to Appendix II-A to read as follows:

**SECTION 25 - Roof Coverings.** Roof coverings on all buildings shall be fire-retardant, and shall comply with the standards established for Uniform Building Code Class A roofing. Re-roofing of existing buildings shall comply with the above except that any re-roofing of less than ten percent (10%) of the total roof area on any building shall be exempt from this requirement. Additions to existing buildings exceeding ten percent (10%) of the total roof area shall comply with this section.

Specific findings: The UFC section relative to hazardous fire areas in the hillside does not address roof coverings. This amendment requires the most fire resistive roof covering type, "Class A," in the hillside areas for both new and reroofing applications.

**Section 3. Severability.** Should any provision of this ordinance be deemed unconstitutional or unenforceable by a court of competent jurisdiction, such provision shall be severed from the ordinance, and such severance shall not affect the remainder of the ordinance.

**Section 4. Effective Date; Posting.** This ordinance shall take effect thirty (30) days after its second reading. This ordinance shall be posted at City Hall.

The foregoing ordinance was introduced at the special meeting of the City Council of the City of Morgan Hill held on the 26<sup>th</sup> Day of March 2003, and was finally adopted at a regular meeting of said Council on the 16<sup>th</sup> Day of April 2003, and said ordinance was duly passed and adopted in accordance with law by the following vote:

<b>AYES:</b>	<b>COUNCIL MEMBERS:</b>
<b>NOES:</b>	<b>COUNCIL MEMBERS:</b>
<b>ABSENT:</b>	<b>COUNCIL MEMBERS:</b>
<b>ABSTAIN:</b>	<b>COUNCIL MEMBERS:</b>



**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
**Irma Torrez, City Clerk**

\_\_\_\_\_  
**Dennis Kennedy, Mayor**

**☞ CERTIFICATE OF THE CITY CLERK ☞**

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA,** do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1612, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 16<sup>th</sup> Day of April, 2003.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

DATE: \_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**





***CITY COUNCIL STAFF REPORT***  
***MEETING DATE: APRIL 16, 2003***

**Agenda Item # 16**

**Prepared By:**

**Deputy City Clerk**

**Approved By:**

**City Clerk**

**Submitted By:**

**City Manager**

**ADOPT ORDINANCE NO. 1613, NEW SERIES**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL DELETING CHAPTER 2.48 (Personnel Commission) OF TITLE 2 (Administration and Personnel) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL ESTABLISHING THE PERSONNEL COMMISSION**

**RECOMMENDED ACTION(S):**

**Waive** the Reading, and **Adopt** Ordinance No. 1613, New Series, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived.

**EXECUTIVE SUMMARY:**

On April 2, 2003, the City Council Introduced Ordinance No. 1613, New Series, by the Following Roll Call Vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.

**FISCAL IMPACT:**

No budget adjustment required.



**ORDINANCE NO. 1613, NEW SERIES**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL DELETING CHAPTER 2.48 (Personnel Commission) OF TITLE 2 (Administration and Personnel) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL ESTABLISHING THE PERSONNEL COMMISSION**

WHEREAS, through Chapter 2.48 of the Municipal Code of the City of Morgan Hill the City of Morgan Hill has established a Personnel Commission, whose functions include the hearing of employee appeals from disciplinary action and general advisement on personnel policy matters; and,

WHEREAS, the hearing of employee appeals from disciplinary action is now governed by applicable provisions of the Memoranda of Understanding with each employee unit and/or the Personnel Rules, which provide for appointment of a three-person panel to hear such matters; and,

WHEREAS, general advisement on personnel policy matters is now provided by the Human Resources Director, and where appropriate, outside consultants and attorneys who specialize in public sector personnel and labor relations matters; and,

WHEREAS, the Personnel Commission has not convened a meeting since 1997, and currently has 3 vacancies and the terms of the last 2 appointees are due to expire on April 1, 2003; and,

WHEREAS, the City Council finds that the functions of the Personnel Commission are appropriately fulfilled by other means, and the Commission should cease to function.

NOW THEREFORE, IN CONSIDERATION OF THE FOREGOING, THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AND ENACT AS FOLLOWS:

**Section 1.** Chapter 2.48 (Personnel Commission) of Title 2 (Administration and Personnel) is hereby deleted in its entirety.

**Section 2.** **Severability.** Should any provision of this ordinance be deemed unconstitutional or unenforceable by a court of competent jurisdiction, such provision shall be severed from the ordinance, and such severance shall not affect the remainder of the ordinance.

**Section 3.** **Effective Date; Posting.** This ordinance shall take effect thirty (30) days after its second reading. This ordinance shall be posted at City Hall.



The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 2<sup>nd</sup> Day of April 2003, and was finally adopted at a regular meeting of said Council on the 16<sup>th</sup> Day of April 2003, and said ordinance was duly passed and adopted in accordance with law by the following vote:

**AYES: COUNCIL MEMBERS:**  
**NOES: COUNCIL MEMBERS:**  
**ABSENT: COUNCIL MEMBERS:**  
**ABSTAIN: COUNCIL MEMBERS:**

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
**Irma Torrez, City Clerk**

\_\_\_\_\_  
**Dennis Kennedy, Mayor**

**∞ CERTIFICATE OF THE CITY CLERK ∞**

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA,** do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1613, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 16<sup>th</sup> Day of April, 2003.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

DATE: \_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**



**CITY OF MORGAN HILL  
SPECIAL CITY COUNCIL MEETING  
MINUTES – MARCH 26, 2003**

**CALL TO ORDER**

Mayor Kennedy called the special meeting to order at 7:07 p.m.

**ROLL CALL ATTENDANCE**

Present: Council Members Carr, Chang, Sellers and Mayor Kennedy  
Absent: Council Member Tate.

**DECLARATION OF POSTING OF AGENDA**

City Clerk Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

***City Council Action***

**OTHER BUSINESS:**

**1. LEGISLATION ON ASSOCIATION OF BAY AREA GOVERNMENT (ABAG) -  
METROPOLITAN TRANSPORTATION COMMISSION (MTC) MERGER**

Assistant to the City Manager Eulo presented the staff report, indicating that last week Council Member Sellers requested that this item be agendized for Council consideration. He stated that last year, there was legislation introduced by Senator Torlakson to combine MTC and ABAG. This year, several members of the legislature vowed to introduce other legislation, noting that Assemblyman Salinas and Senator Torlakson have introduced another bill. He informed the Council that he spoke with a consultant from Senator Torlakson's office today who is working on this issue who stated that the Senator and Assemblyman are working closely together on this, both agreeing to postpone action bills this year with the assumption and agreement that MTC and ABAG will be meeting and arriving on a compromise proposal. Staff questioned whether there was a valid motion on the table to make at this time. He recommended that the City go on record to state that it is in favor of regional planning and believe that there should be a merger.

Mayor Pro Tempore Chang, City's ABAG representative, stated that it was her belief that item 1 addressed to the City Manager and the City Council is the most recent proposal. She said that at last week's ABAG Executive Board meeting, ABAG representatives came up with a proposal that would be sent to MTC for approval. ABAG is recommending that ABAG and MTC each have seven board members meet and try to work out a conclusion. She indicated that MTC will be holding a meeting this evening and will review the proposal to determine if it is acceptable. She said that Santa Clara County has a statement from the Cities Association board. The statement was presented to the ABAG Executive



Board last week. She said that the issue is under good discussion. If the City wants to make a statement, she recommended that the City model its statement from the Cities of Santa Clara County statement in supporting a similar stand. She indicated that she spoke with Eugene Young last night and that because of the urgency of the matter, the issue was handled differently than would have normally occurred.

Council Member Sellers stated that he appreciated that the Cities Association took action on this issue. He felt that a framework in which to resolve the issue is in place and that he did not believe that the City needs to add its voice as it previously provided comments.

Council Member Carr said that in hearing Mr. Eulo's report it appears that Senator Torlakson and Assembly Member Salinas are interested in allowing the bodies to work something out before they push forward with legislation. He noted that last year, legislation was proposed at the Sacramento level that did not have buy in at the local level. In reading the March 21 letter from ABAG, he felt that they have agreed to the MTC proposal on how to work out the merger, adding some items to their proposal. It appears that ABAG is requesting an MTC response by April 20. He was not sure that anything in the interim from the City would help the process. He stated that he would be interested in seeing the response from MTC. It is his hope that both ABAG and MTC would be able to agree and move forward. He felt that the issue for the City of Morgan Hill in any consolidation of these bodies is one of representation and how Santa Clara County, especially the smaller cities in the County, would be appropriately represented in the body that comes out of the merger to talk about regional planning efforts. He said that the Cities Association, in their motion, specially talked about equitable representation and he felt that this was a strong position for the Cities Association to take.

Mayor Pro Tempore Chang indicated that she provided the Council with the agenda for tomorrow's Legislative Action Committee meeting. She requested that Council Members forward their thoughts on the issue to her.

Council Member Carr said that the Legislative Committee has agreed to adjust its meeting schedule so that it can be helpful to Mayor Pro Tempore Chang to discuss issues in advance of ABAG meetings.

Mayor Pro Tempore Chang indicated that the only individual who attended the ABAG meeting was Dave Cortese and that it was her belief that he would present the report tomorrow. She felt that there was a disconnect because the individuals on the ABAG executive board are not necessarily on the Legislative Action committee and not necessarily attending board meetings. She did not believe that everyone is aware of what is taking place.

Mayor Kennedy indicated that there has been some controversy between Dave Cortese and John McLemore, the Cities Association representative from the City of Santa Clara. He recommended that everyone pay attention to this issue. He requested that Mayor Pro Tempore Chang report back to the Council at its next meeting what was discussed by the Legislative Committee as it was his belief that this is a critical issue with a lot of political forces involved.

Mayor Pro Tempore Chang stated that it was her belief that she would be receiving a letter from ABAG as to the response. She did not believe that any action would take place this year. She informed the



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Council that she has a copy of ABAG's Legislative Committee focus should any Council Members want a copy.

**Action:**            **No action taken.**

Mayor Pro Tempore Chang indicated that it was her belief that City staff sent information on housing. She inquired whether any information has been returned from the California Redevelopment Association (CRA) for her to report relating to co sponsoring a bill.

City Manager Tewes said that it was his belief that Mayor Pro Tempore Chang was referring to a piece of legislation introduced at the suggestion of the Cities Association that would deal with agreements between cities on how low and moderate income housing funds could be used in adjoining communities. He said that this bill has been introduced as a spot bill and a number of public interest groups are reviewing it, including the CRA. He indicated that CRA has not yet taken a position on it. He said that the CRA process involves a review by a State-wide housing committee and that this review has not yet been completed.

### **ADJOURNMENT**

There being no further business, Mayor Kennedy adjourned the meeting at 7:37 p.m.

**MINUTES RECORDED AND PREPARED BY:**

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**IRMA TORREZ, CITY CLERK**



**CITY OF MORGAN HILL  
SPECIAL CITY COUNCIL MEETING  
MINUTES – MARCH 26, 2003**

**CALL TO ORDER**

Mayor Kennedy called the special meeting to order at 7:07 p.m.

**ROLL CALL ATTENDANCE**

Present: Council Members Carr, Chang, Sellers and Mayor Kennedy  
Absent: Council Member Tate.

**DECLARATION OF POSTING OF AGENDA**

City Clerk Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

***City Council Action***

**OTHER BUSINESS:**

**1. LETTER IN OPPOSITION TO PROPOSED CHANNEL LINEUP CHANGE**

Assistant to the City Manager Eulo presented the staff report, indicating that Charter Communications is proposing a channel line up change. He said that Charter is making this change in order to market to the Spanish speaking community. He stated that the Chamber of Commerce, the City of Gilroy and others have written letters to Charter Communications in opposition to the line up change. He indicated that cities do not regulate the program offerings of cable companies.

Mayor Kennedy indicated that several letters have been written in opposition to the channel line up change including other cities, Morgan Hill Chamber of Commerce, and other Chamber of Commerce organizations.

Council Member Sellers said that the other reason it makes sense to retain the two stations is the news coverage. He supported the Mayor drafting and sending a letter in opposition to the channel line up change.

Council Member Carr said that while he understands that the expanded Spanish television market is an important one, he felt that Charter Communications should be looking at ways to address this market and provide services to the Spanish community. However, long time existing stations, especially news coverage, is a benefit to area communities. He would support a letter in opposition.



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Mayor Kennedy indicated that the letter from the Chamber of Commerce suggests that there is no reason why it cannot retain the two stations and add the additional Spanish speaking channels. He indicated that he has several draft letters to look at and that he will send a letter based on the Council's recommendation.

**Action:**        *On a motion by Council Member Sellers, and seconded by Council Member Carr, the Council, on a 4-0 vote with Council Member Tate absent, **Supported** Mayor Kennedy drafting/sending a letter in opposition to the proposed Charter Communication channel line up change.*

### **ADJOURNMENT**

There being no further business, Mayor Kennedy adjourned the meeting at 8:50 p.m.

**MINUTES RECORDED AND PREPARED BY:**

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**IRMA TORREZ, CITY CLERK**



**CITY OF MORGAN HILL  
SPECIAL CITY COUNCIL MEETING  
MINUTES – MARCH 27, 2003**

**CALL TO ORDER**

Mayor Kennedy called the special meeting to order at 6:21 p.m.

**ROLL CALL ATTENDANCE**

Present: Council Members Carr, Chang, Sellers, and Mayor Kennedy  
Absent: Council Member Tate

**DECLARATION OF POSTING OF AGENDA**

City Clerk Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

**CLOSED SESSIONS:**

City Attorney Counsel Leichter announced the below listed closed session item:

1.

**CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**

Legal Authority: Government Code Section 54965.9(a)  
Case Name: Santa Clara Valley Audubon Society v. City of Morgan Hill  
Case No.: Santa Clara County Superior Court, No. CV 815655  
Attendees: City Council, City Manager, City Attorney

**OPPORTUNITY FOR PUBLIC COMMENT**

Mayor Kennedy opened the Closed Session items to public comment. No comments were offered.

**ADJOURN TO CLOSED SESSION**

Mayor Kennedy adjourned the meeting to Closed Session at 6:22 p.m.

**RECONVENE**

Mayor Kennedy reconvened the meeting at 6:25 p.m.



**CLOSED SESSION ANNOUNCEMENT**

City Attorney Leichter announced that the City Council authorized her to defend the City in the Case of Santa Clara Valley Audubon Society v. City of Morgan Hill, Case No.: Santa Clara County Superior Court, No. CV 815655.

**ADJOURNMENT**

There being no further business, Mayor Kennedy adjourned the meeting at 6:27 p.m.

**MINUTES RECORDED AND PREPARED BY:**

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**IRMA TORREZ, CITY CLERK**



**CITY OF MORGAN HILL  
SPECIAL CITY COUNCIL MEETING  
MINUTES – MARCH 27, 2003**

**CALL TO ORDER**

Mayor Kennedy called the special meeting to order at 4:35 p.m.

**ROLL CALL ATTENDANCE**

Present: Council Members Chang, Sellers, and Mayor Kennedy  
Late: Council Member Carr (arrived at 4:40 p.m.)  
Absent: Council Member Tate

**DECLARATION OF POSTING OF AGENDA**

City Clerk Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

**OPPORTUNITY FOR PUBLIC COMMENT**

Mayor Kennedy opened the floor to comments for items not appearing on this afternoon's agenda. No comments were offered.

**WORKSHOP**

1. **CONDUCT WORKSHOP TO REVIEW AND PROVIDE COMMENTS ON THE SCHEMATIC DESIGN FOR THE SANTA CLARA COUNTY COURTHOUSE PROJECT**

Director of Community Development Bischoff indicated that staff recommends that the County/Design Team walk the Council through the origin of the design and discuss the various aspects of the project. Upon their conclusion, staff would review some of the concerns it has with respect to the design of the courthouse and how staff believes the design could be improved to be more consistent with the image of Morgan Hill. He said that it is staff's hope that the meeting could conclude with clear direction in terms of the County/City agreement on the next steps.

Alicia Flynn, project manager, indicated that the design team would address the design of the courthouse project and respond to comments and questions that the Council may have.

Chuck Drulis, courthouse project architect, walked the Council through the design of the courthouse, including project programming and site planning.

Mallary Cusenberry, member of the design team, indicated that he would introduce the Council to some of the underlying design. He said that it was his hope to demonstrate that as the design progresses, the end product would be a civic landmark and be neighborhood responsive; a project that recognizes and supports the image of downtown Morgan Hill. He said that he is approaching this goal in a number of



ways, starting with a project that has a strong civic presence; articulating the civic presence through the use of noble materials and quality detailing. It is the design team's hope to create a certain resonance with the use of traditional architecture that is associated with court houses; working volume metrically in a way that evokes some of the parcelization that the Council may be familiar within traditional town planning that is in keeping with a town of this size. The design team tried to create gestures that were reflective of the agricultural history of Morgan Hill. He addressed the civic component followed by the neighborhood response component. He felt that one of the goals is to create a building that feels open and accessible. The design team has created public areas in key components, from the civic design standpoint and from a neighborhood stand point, by placing the lobby and jury assembly room on the corner of Butterfield and Diana. He noted that public circulation has been placed along Butterfield Boulevard. The design team took the north entrance for the justice agency building and the south entrance for the court house facility; manifesting into two major plazas. He stated that the creation of an adjacency of public uses is a key to making the site open and accessible. He indicated that another important element is symbolism. It is the design team's hope that the final design would provide a sense of elegance, simplicity, accessibility and dignity.

Mr. Cusenberry addressed the neighborhood responsive design as well as the civic design, indicating that the design provides Butterfield Boulevard with a greater degree of intimacy than it currently has with a reference point being the downtown. It is a goal to have a distinct street edge along Butterfield, nesting the parking behind the building. A third component is the idea of parcelization. He said that the design team is trying to create a distinct rhythm that scales more at a standard parcel width. Regarding neighborhood relationship, he felt that scale was important, noting that the building is designed several feet below the height limit. The design team has carefully worked all the mechanical units into the volume of the building. The scale of the bays is 4.5 feet projecting out of the face of the buildings. Therefore, the recesses along Butterfield are fairly deep and the portico itself is deeper yet. The design includes significant recesses and not just superficial modulations of the facade. It was his belief that these elements would work to mitigate the size and length of the building. The idea of pedestrian orientation is another key component of an interface with the neighborhood. He said that the design team focused the pedestrian movement toward key areas, including the articulation of a pedestrian walk along Butterfield Boulevard. The design team also tried to create both a civic land mark and a neighborhood friendly project. He felt that through the use of broader gestures and fine articulation, it would provide an elegant and a strong civic presence; one that is enjoyable and would be an amenity to be around. The design would provide a comfortable intimate environment to appreciate the dignity of this important public building.

Mr. Drulis indicated that parking is sited behind the building. The public face of the building would balance this out for convenience from the parking lot to gain access to the facility. This would still afford a civic presence on the corner. He noted that the building has one single secured entry because of the court house facility. The design team is exploring the use of bench elements at the street level so that pedestrians will have an opportunity to sit, rest, talk or wait for someone to pick them up along Butterfield. It was indicated, at a previous Council meeting, that a pedestrian element was important. Discussed was the potential opportunity for a small pocket park that could include benches at the south entrance. He indicated that the design team was initially concerned about the length of the building. He said that the scale of the project starts to break down at the north end of the site where it becomes a one story building.



Council Member Chang stated that she was not clear about the pedestrian access to the downtown area.

Mr. Cusenberry identified the pedestrian walkway to the downtown.

Mr. Drulis said that one thing that the design team is waiting for is the land between the parking lot and the adjacent property proposed for a fire station. Once the adjacent property conceptually takes a step forward, the design team can move a node to link up to the crossing near the Caltrain station.

Mr. Cusenberry stated that the design team knows that it is important that people be able to circulate to the downtown. He sees the pedestrian path being developed as a shaded, nice place to walk through and sit, and that it not be an after thought.

Mr. Drulis said that the design team did not touch on every guideline as it was felt that there were some factual compliance pieces required. The design team looked at the more subjective elements of the guidelines to discuss at this meeting. He stated that the design team feels that the design is in substantial compliance with the City's guidelines as it was used as a reference in site planning. He displayed split face lime stones with a color range being considered for the building. Also, a ground cover terra cotta slate color is being proposed for the floors in the building and the plaza and that plaster is to be used on the exterior of the buildings. The design team is considering the use of Santa Barbara white to cream colors. He characterized the proposed use of materials as being elegant and soft, referential to the City's civic building. He identified the miscellaneous to be used (e.g., gates in the parking area and slots).

Council Member Chang said that these were the colors she would have liked to have painted the community center. She stated that she liked the design as it gives the building a civic presence. She was pleased that a model was brought to the meeting. She excused herself from the remainder of the meeting.

Director of Community Development Bischoff stated that he felt that the design team did a lot to meet the design guidelines. He identified the following requirements: 30 foot building setback; a building height limitation of 40 feet, buildings not to be designed to have a back side; the service areas between the two buildings to be screened; parking to be located to the rear; no roof mounted mechanical equipment; and a building designed with a strong civic statement. He acknowledged that the design team satisfied these positive requirements/aspects. He addressed the design of the project in terms of consistency with the small town; family oriented image of Morgan Hill referenced in the design guidelines. He displayed some examples of buildings that illustrate some of the concepts that would address scale and mass, breaking up the horizontal plain in the mix of single and multi story units. He noted that Mr. Cusenberry stated that the recesses would help to mitigate the length of the building. He understood what Mr. Cusenberry was stating but that he was not certain that staff necessarily agreed. He felt that protruding recesses would be an effective way to reduce the mass of the building. An example illustrates the concept of mixing single and multi story units. He felt that the examples demonstrate how the building could be articulated in a different manner to address some of the concerns that City staff perceives in terms of the massiveness of the building. He said that the roof is another aspect that adds to the feel of massiveness. He stated that the guidelines suggest that slope roofs be used as a way of reducing the perceived volume of the building or stepping it back to provide variation. He



stated that human scale makes a building consistent with a Morgan Hill image of a small town, friendly family orientation. He noted that it was indicated that the use of trellis would extend out and the use of benches would help address this aspect. Staff's concern with the proposed design is that the glass is extended up to a height of 28 feet and does not believe that a human scale is provided as there is no horizontal break. Regarding the building entrances, Mr. Drulis indicated that the guidelines talk about the entrance being to the north. He noted that the Mayor made mention of flipping the project with the main entrance to the courthouse being at the north end of the site. If the entrance was relocated to the north, it would provide a direct connection for individuals to the downtown area. He said that the Water District building design was the closest design that would be more in keeping with Morgan Hill.

City Architect Dumas said that when he initially looked at this project, he was concerned about the design concept of the building and how it would be carried out. He felt that the design was fragmented, somewhat, because the east and west elevations were drastically different. The office building design was also different from that of the courthouse building design. He felt that one design concept should be implemented throughout instead of having one Butterfield elevation and the west elevation being different. He understood that everything is driven by site planning and that it dictates the elevations.

Mr. Cusenberry inquired whether staff would like to see the same design throughout the buildings.

Mr. Dumas did not know if the Butterfield design is the correct one. He recommended that the design team start with one design concept and that it be implemented throughout the project with some variation.

The design team walked the Council through the interior and exterior of the model.

Mr. Drulis stated that the materials presented this evening were the range of materials/colors being considered.

Mr. Dumas acknowledged that the interior of a facility dictates the design, to a degree. Initially, he is looking at elevations to see what drives them. He said that the east and west facades are different and that they need to be molded so that it is one overall concept versus specific facades that are different. He shared Mr. Bischoff's comments relating to human scale.

Council Member Carr inquired whether anything would have been done differently if the City owned the property for the fire station in planning the building. He inquired whether it would make sense to have the fire station closer to the intersection of Butterfield and Dunne and that the County buildings are better served being closer to the train station, bus station and the downtown area.

Mr. Drulis said that there is a basic town planning approach that is sound: having consistent frontages on the street and siting important elements toward the street. From an operational stand point, he stated that the fire trucks would have to cut through the center divide if the fire station is sited at the intersection. He said that for the number of individuals visiting the site, based on traffic flow, the intersection is desired.



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Ms. Flynn indicated that from the County's perspective, the Butterfield and Dunne intersection was an attraction for the site in terms of presence of the building and access to and from the building. It was important to have the ability to locate the facility at a corner versus mid block.

Council Member Carr indicated that when the County and City were looking at the site, thought was not given to a fire station. From a public safety stand point, he felt that a fire station should be sited at the intersection.

Mayor Kennedy stated that there were a lot of features about the facility that very well done/appealing. He felt strongly that the main entrance should be located mid block. He stated that the pedestrian railroad crossing to the downtown is being built. He said that the main downtown cross street, Third Street, is right across and located near the proposed fire station site. He stated that it makes sense to have the jurors, judges, and attorneys access the building through the City's main pedestrian corridor to the downtown. He sees a major conflict by siting a fire station as proposed. He felt that this is something that the City needs to work on as the fire station seems to be in conflict with the principal. He would like to see the fire station located elsewhere, making the area a main pedestrian mall. He recommended that the main entrance to the facility be flipped. With respect to the design of the building, he recommended that the solid blank wall be cut back and opened so that you can see glass and other variations. As designed, it is open at one end and not at the other end. He requested that something be done with the backside to make it more attractive. He also recommended that something be done with the entrance presence so that it does not dominate the design of the entire building. He felt that the box on each form makes the building unattractive. He would support a design that would make the building more attractive. He felt that the appearance of the second building has no warmth and is monotonous. He recommended that something be done to make the building more attractive and fit in with the surrounding.

Council Member Sellers thanked the architects and everyone else for coming to City Hall. He stated that the design team took very conflicting concepts and pulled them together. He was pleased to see that the design team was given some latitude to the downtown link as it is an important/critical element to the Council. He said that he was not in the same frame of mind as Mr. Dumas and the Mayor regarding the sides of the building as he felt that the Butterfield side is different from the parking lot side. Overall, he felt that the design was getting closer. He liked the entry statement as it gave the facility a presence. He said that his biggest concern tends to be the Butterfield entrance. He requested that consideration be given to the 310 foot long building and the walls on Butterfield. He appreciated the design team giving consideration to travel speed as it relates to the feel of the building. He said that he was not adverse to height variations. He said that there is some uniqueness to the building that might allow the County to figure out a way to break up the building. He appreciated the manner in which the mechanical equipment was handled. He felt that the building would be stark from the angle. He was satisfied with the design with the exception of the entrance and recommended that focus be given to some of the architectural exterior elements. He felt that the use of canopies might be a key element that would break the building up on the parking lot side.

Council Member Carr said that in viewing the model and being able to take the roof off in order to understand how the design works was important. He agreed with Mayor Kennedy about the entryway. He felt that the entryway was important and is dramatic. He felt that the entryway was located on the



opposite side to the importance of the building. He stated that connection to the heart of Morgan Hill was important and could be worked on. He said that he would hate to lose the 1.6 acre opportunity. He inquired whether anything could be done differently if the 1.6 acres were made available. He expressed concern with the Butterfield Boulevard side of the building being elongated. The flat roofline is something that he believes the Council should work on. He felt that the court likes being at the corner but that they might be persuaded.

Joseph Mueller felt that there were other practical reasons why the County should consider flipping the design of the building. He said that the County is missing the connection as identified by Mayor Kennedy and Council Member Carr. He noted that the Court will have workers behind the least desirable area. He said that the EIR for the project states that the County wants to have individuals access the site via train or bus, therefore, the functionality of the site has missed the point of what is valuable for Morgan Hill; the visual connection to the downtown. He felt that the architect/County needs to rearrange the building elements. He felt that the functionality issue could be addressed, especially if the City takes over the adjacent 1.6 acres to have the design meet the livable/pedestrian friendly community connection to the downtown.

Council Member Sellers said that there are two significant logistical details that the City needs to act on right of way if a pedestrian connection to the downtown is to be achieved: 1) determine the land use for the land north of the site; and 2) address the issue of accessing the site coming north on Butterfield. He was not satisfied that left turns onto Diana would be the appropriate traffic flow to access the parking lot. He did not know if it made sense to install another intersection or traffic light at Diana and Butterfield as it would defeat the traffic flow on Butterfield Boulevard.

Mr. Mueller indicated that the City has previously increased the height limitations in order to add features that would break up solid roof lines on other buildings in town.

Mayor Kennedy requested that City staff take a look/come up with a proposed site plan that studies the concept of a pedestrian mall by flipping the building within a week that would include the 1.6 acre Valley Transportation Agency land.

Mr. Drulis stated that the County would be interested in a plan that identifies what will happen to the 1.6 acre strip of land as this would be something that the County could respond to. He said that consideration has to be given to an intersection. Should the City decide to conduct a planning study, he requested that the City consider and express what would be acceptable from a planning stand point, indicating that County staff would respond to the planning study.

Judge Shapiro said that Court personnel are impressed and have a lot of confidence with the work of the architect. The Court is in favor of the corner entrance as it reflects the corner of the building. He would be willing to reflect and take back to the Court the recommendation to change the location of the entrance. He stated that the court would need to see what would be proposed with the 1.6 acre area as a court plaza versus a fire station/office building as access is a concern. H indicated that by year 2007, there will be a split between the Court system and the County, the Court taking over the court facility and the County retaining the office facility. Access to the parking lot will need to be maintained, noting that this will be resolved by the State and the County. The court is concerned about staying on the



timeline, looking at the end of 2005 to build the courthouse. He said that the County needs to know how the 1.6 acre area will be used as soon as possible, indicating that the Court is open to considering alternative plans.

Council Member Carr inquired whether changing the height of the building would address the City's concern.

Mr. Drulis said that he would need to review the budget to see what can be accomplished. If the City raises the height limit and the County directed that he look at options, he would study the options; however, this would take time and additional money.

Mr. Dumas addressed the pedestrian way, indicating that you would not want to cross vehicular traffic and pedestrian traffic.

Ms. Flynn said that the concept of shifting the design would take a lot of thought.

Council Member Sellers noted that a concern raised by Mr. Dumas and the Mayor was the entryway.

Mr. Drulis said that there could be a possibility in bringing circulation along the edge or diagonally across the site. He said that there are opportunities to place benches near the building but that the design does not see the area as a tight sidewalk where you have to work your way to the building.

Mr. Gusenberry stated that the design team would embrace ways of evolving the parking lot to have a viable circulation. He agreed that it would be good to provide a choice and variety in terms of pedestrian circulation. He felt that there was enough space on site to incorporate pedestrian circulation and would embrace and support these kinds of connections.

Mr. Drulis indicated that the design team would agree to take all information and evaluate it and that the County would provide the design team direction on how the project is to proceed.

Ms. Flynn suggested that should the Council wish to hold another workshop, County staff could return to the Council with a progress report.

Council Member Sellers inquired whether April 9 is a meeting date that the County could return to the Council.

City Manager Tewes indicated that April 9 is a possible meeting date. He indicated that Mr. Bischoff is the staff member responsible for design issues. He recommended that County staff be in touch with Mr. Bischoff to schedule another meeting. He felt that it would be helpful, on the specific issue of changing the contract, that City staff hear whether a change in the contract for the height limitations would give the County flexibility to address some of the issues.

Mr. Gusenberry addressed access and the intersection issues from an operational stand point. He stated that it was important to realize that as you come off the intersection, there is a good chance that you may draw people off as they arrive to the facility (drop off an individual and then park the car). It is the idea



that as one drives off of the intersection, there are a couple of drop off points with no parking to avoid obstructions. This sequence corresponds to the State Seal that is located on the side of the courthouse and the entry into the plaza and parking garage. He said that the drop off areas have a civic node as part of this sequence. If the pedestrian component is shifted and the traffic component is not, there would be a situation where everybody is coming from the back side and have to cross drive, making a turn in order to park. He felt that these were logistics that would be worth discussing.

Mayor Kennedy suggested moving the entire building back and provide a drive in front for drop offs.

Mr. Bischoff recommended the use of a duck out for drop offs.

Mr. Drulis said that the design team is trying to keep the building away from the railroad tracks, as much as possible, because the guidelines mention acoustic problems. He said that the design team is sensitive to this, given the fact that there are jury deliberations taking place as well as use of the judge's chambers and the courts. He felt that there was an advantage to keeping the building as close to Butterfield as possible.

Mayor Kennedy said that it is his impression of courthouses that they tend to sit back and that entrance to the building is typically from the front street side. He requested that the City staff look at the use of a duck out or another alternative.

Ms. Flynn said that she would like the opportunity to talk to the design team about the concepts presented by the City and what they believe would work. She would contact Mr. Bischoff to determine what would be the most meaningful way to return to the City in another workshop setting, keeping in mind the timeframes and progression of the project.

Mayor Kennedy thanked the County, Judge Shapiro and the design team for attending the workshop as it was helpful. He hopes that all agencies can keep the progress moving.

## **ADJOURNMENT**

There being no further business, Mayor Kennedy adjourned the meeting at 6:21 p.m.

## **MINUTES RECORDED AND PREPARED BY:**

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**IRMA TORREZ, CITY CLERK**





## **REDEVELOPMENT AGENCY**

**MEETING DATE:** *April 16, 2003*

Agenda Item # 21

Prepared By:

BAHS Manager

Approved By:

BAHS Director

Submitted By:

Executive Director

### **TRAIN DEPOT BUILDING RENTAL**

#### **RECOMMENDED ACTION(S):**

Direct staff to negotiate a rental agreement for the City's Train Depot Building with Brett and Lynn Susidko, dba Café Y'a Bon An Espresso Bar, LLC.

**EXECUTIVE SUMMARY:** For more than eight years, the City has been working with the railroad (formerly Union Pacific/currently Southern Pacific) and the Public Utilities Commission to obtain permission to design and build an "at-grade" pedestrian crossing over the railroad tracks from the City's train depot building on Depot Street connecting to the Valley Transportation Authority's (VTA) Cal-train park-and-ride lot on Butterfield Boulevard. Because of liability concerns over crossing the railroad tracks, the City's train depot building can not be leased until the "at grade" crossing is complete. Since the crossing is now under construction and slated for completion in April 2003, staff released a request for proposal in February 2003.

Two proposals were received from: 1) Maribeth and Charles Brewer (e.g. House of Bagels), and 2) Brett and Lynn Susidko (e.g. Y'a Bon, An Espresso Bar). Both the House of Bagels and Y'a Bon propose food uses aimed at the Cal-Train commuters. Both agree to stock a small visitor's center. The House of Bagels proposes a 10 year rental term at 4% of sales, estimated at up to \$6,480 per year NNN; Y'a Bon proposes a 20 year rental, starting with \$0 rent NNN in year one, \$2,835 in year two and increasing by 4% per year in years three through twenty. House of Bagels would develop the interior design for the building and requests that the Agency pay for all tenant improvements (TI's); Y'a Bon proposes to design, install, and pay for the TI's, but requests a \$20,000 15-year interest free loan. Y'a Bon also requests that the Agency pay for City Impact Fees and for clean-up/repair of vandalism to the building. A comparison of the two proposals is attached.

While both groups offer a limited return to the Agency, Y'a Bon's proposal offers longer operating days and hours, a newspaper rack, equity participation (\$5,000-\$10,000) in the TI costs, and installing the TI's. The City Council's Economic Development Committee has considered the proposals and recommends working with Y'a Bon. Staff is requesting authority to negotiate the terms and conditions with Y'a Bon. For example, staff believes that a shorter rental term will be in the interest of both Y'a Bon and the Agency. Y'a Bon is willing to work with staff to refine the terms and conditions for the rental agreement and the proposed loan.

The final rental and loan agreement would be brought back to the Agency for approval

**FISCAL IMPACT:** Sufficient funds have been budgeted in Fund 317 Economic Development, and are available, if needed, for tenant improvements.



**CITY OF MORGAN HILL  
JOINT SPECIAL AND REGULAR REDEVELOPMENT AGENCY AND  
SPECIAL CITY COUNCIL MEETING  
MINUTES – MARCH 26, 2003**

**CALL TO ORDER**

Chairperson/Mayor Kennedy called the meeting to order at 7:07 p.m.

**ROLL CALL ATTENDANCE**

Present: Agency/Council Members Carr, Chang, Sellers and Chairperson/Mayor Kennedy  
Absent: Agency/Council Member Tate

**DECLARATION OF POSTING OF AGENDA**

Agency Secretary/City Clerk Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2

**SILENT INVOCATION**

**PLEDGE OF ALLEGIANCE**

At the invitation of Chairperson/Mayor Kennedy, Ryan Shepherd led the Pledge of Allegiance.

**RECOGNITIONS**

Mayor Kennedy presented Certificates of Recognition to Steve Woodson, Steve Fuentes, Stan Shepherd, David Masuda, Ethan Salzano, Ryan Shepherd, Stephen Woodson, Jr., and Shawn Fuentes in acknowledgement of the Heroism and Meritorious Action Awards that these Scouts received from the Boy Scouts of America for their heroic life saving efforts.

**PRESENTATIONS**

Rudy Padre, 3-Com Corporation, Santa Clara, presented Mayor Kennedy 3-Com Urban Challenge Grant Program for his endorsement of the program. He indicated that every six months, 3-Com donates approximately \$½ million to various entities such as local government and education, looking at ways to bridge the digital divide and bringing the benefits of technology to all citizens.

**CITY MANAGER'S REPORT**

City Manager Tewes informed the Council and the public that individuals who pay flood insurance would have their premiums reduced by 15% if their premiums are due on or after May 1, 2003. He said that in conjunction with the Santa Clara Valley Water District, the City participated in the community rating system, administered by the National Flood Insurance



Program who have established goals for flood plane management and for educational efforts which together with the Water District, the City has achieved. He stated that the Water District's effort has resulted in a Class 9 rating which translates into a 5% discount county-wide. He indicated that the City's additional flood plane management and education effort will result in a Class 7 rating that equates into a 10% reduction for a total of 15%, effective May 1. Morgan Hill residents paying flood insurance premiums due on or after May 1, 2003 will automatically receive the 15% reduction. Unfortunately, the reductions will not be prorated and that if a premium is due in April 2003, the individual will need to wait another year to receive the benefits. He was pleased that the Federal Emergency Management will be presenting a plaque to the City Council on May 7 to recognize the City's effort. He indicated that this is a project that the City has been work on for more than a year and that he was pleased that the City met the goals of the community rating system, and thereby reduce flood insurance premiums by 15%.

### **PUBLIC COMMENT**

Chairperson/Mayor Kennedy opened the floor to comments for items not appearing on this evening's agenda. No comments were offered.

### **CONSENT CALENDAR:**

#### ***Redevelopment Agency Action***

**Action:**        *On a motion by Agency Member Sellers and seconded by Agency Member Carr, the Agency Board, on a 4-0 vote with Agency Member Tate absent, approved Consent Calendar Item 1 as follows:*

1.        **FEBRUARY 2003 FINANCE & INVESTMENT REPORT**

**Action:** Accepted and Filed Report.

#### ***City Council Action***

### **CONSENT CALENDAR:**

**Action:**        *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council, on a 4-0 vote with Council Member Tate absent, approved Consent Calendar Items 2 and 3 as follows:*

2.        **2003 HAZARDOUS VEGETATION PROGRAM UPDATE**

**Action:** Accepted Report.

3.        **APPROVE PROFESSIONAL SERVICES AGREEMENT FOR CONSTRUCTION STAKING FOR BUTTERFIELD BOULEVARD EXTENSION**

**Action:** Authorized the City Manager to Execute Consultant Service Agreement with MH Engineering for Construction Staking and Construction Related Services for Butterfield Extension in the Amount of \$63,935.00, Subject to Review and Approval by City Attorney.



## ***City Council Action***

### **CONSENT CALENDAR:**

Mayor Pro Tempore Chang indicated that she resides within 500 feet of this project. She excused herself from the Council Chambers.

**Action:** *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council, on a 3-0 vote with Mayor Pro Tempore Chang and Council Member Tate absent, **Approved** Consent Calendar Item 4 as follows:*

#### **4. ACCEPTANCE OF WELL ABANDONMENT PROJECT**

**Action:** *1) **Accepted** as Complete the Well Abandonment Project in the Final Amount of \$31,175.00; and 2) **Directed** the City Clerk to File a Notice of Completion with the County Recorder's Office.*

Mayor Pro Tempore Chang resumed her seat on the dais.

### **PUBLIC HEARINGS:**

#### **5. AMENDMENT OF MUNICIPAL CODE REGARDING ADOPTION OF THE UNIFORM CODES FOR FIRE – Ordinance 1612, New Series**

City Attorney Leichter presented the staff report.

Chief Building Official Ford identified the specific changes proposed to the Fire Code. He stated that the proposed changes would bring the City in compliance with State law. He indicated that staff spoke with some of the developers about the proposed changes. He indicated that Santa Clara County Deputy Fire Chief Dirk Matter was in attendance to answer questions the Council may have.

Council Member Carr inquired whether the Chamber of Commerce had the opportunity to review the proposed changes and/or whether staff sought their input. He noted that staff indicated that the proposed changes would affect businesses rather than residential.

Chief Building Official Ford said that he spoke with commercial developers, not specifically the Chamber of Commerce. He informed the Council that most jurisdictions have already adopted this code and therefore, most manufacturers and contractors are aware of the specific conditions.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

**Action:** *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council, on a 4-0 vote with Council Member Tate absent, **Waived** the Reading in Full of Ordinance No. 1612, New Series.*



**Action:**      *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council **Introduced** Ordinance No. 1612, New Series, by Title Only, as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL REPEALING CHAPTER 15.44 (Fire Prevention Code) OF TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL, AND ADOPTING CHAPTER 15.44 (Fire Prevention Code) OF TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL, THEREBY ADOPTING BY REFERENCE AS THE FIRE CODE OF THE CITY OF MORGAN HILL THE TEXT OF THE 2001 CALIFORNIA FIRE CODE, AND THE 2000 EDITION OF THE UNIFORM FIRE CODE AS PUBLISHED BY THE WESTERN FIRE CHIEFS ASSOCIATION, INCLUDING APPENDICES I-C, II-A, II-B, II-C, II-D, II-I, II-J, III-A, III-B, III-C, III-D, IV-A, V-A, VI-A, VI-B, VI-C AND VI-J, AS AMENDED BY THE STATE OF CALIFORNIA, EXCEPT SUCH PORTIONS AS ARE HEREINAFTER DELETED, MODIFIED OR AMENDED REGARDING FIRE PREVENTION AND TOXIC GASES** by the following roll call vote: **AYES:** Carr, Chang, Kennedy, Sellers; **NOES:** None; **ABSTAIN:** None; **ABSENT:** Tate.*

#### **OTHER BUSINESS:**

#### **6.      SPECIAL EVENT INSURANCE FOR THE COMMUNITY AND CULTURAL CENTER**

City Manager Tewes indicated that the Community and Cultural Center has been opened a few months and that City staff is experiencing growing/learning pains as it moves along. One of the things learned is that the facility, as designed, is a multi purpose community center and was not designed solely as a recreation facility or an event center. The combination of things, together with the City's pricing, operations and risk management policies have led some of the City's potential users to wonder whether or not they should use the facility. He indicated that tonight, staff is presenting one issue; risk management in regard to the extent to which insurance should be required, risk shared or shifted. He stated that in subsequent meetings, staff would be bringing other topics for Council review as well.

Recreation and Community Services Manager Spier presented the staff report, indicating that staff would be returning with a comprehensive report about some suggestions that staff believes would make utilization of the community center easier for staff as well as the end user in April. She informed the Council that staff is finding the center to be unique and requires learning skills that need to be applied as it is both a community and event center. Staff is finding that it has to combine a lot of expertise from neighboring/other cities in order to have an effective and efficient operation. Staff would like to focus on the area of insurance. She said that staff is finding that it is receiving quite a few request for the community center in the area of alcohol related events. She indicated that there are a couple of requirements that are out of the City's hand such as ABC requirements as they are state mandated. Staff will be returning to the Council regarding this issue next month. She said that the insurance requirements come from insurance companies and not from staff. She identified three options to address insurance



requirements: 1) continue with the current insurance policy (may result in the potential users conducting comparison shopping; is a cumbersome process with insurance response times varying; insurance companies will not quote prices). 2) City self funded - establishing deductible that is paid by user on a pro rated basis based on an estimate; funding a \$100,000 deductible for one claim and then ABAG would come in. This option allows staff to control fees and the City would be able to market the center to end users (marketing tool). This option would place all the risk on the City. If there is a single claim filed, it would wipe out the account. 3) Establish a policy for the Community and Cultural Center and its events. The City would pro rate the rates but indicated that staff has not found an insurance rider for this option. Staff would like the City to require insurance for all events that will serve alcohol, no matter the numbers in attendance at the event. She addressed the number of inquires, the number of users and projected/actual revenues from January to March 2003.

Council Member Chang inquired whether the Sports Management Group evaluations took into consideration the first 3-6 month revenue projection.

Ms. Spier responded that the Sports Management Group understood that the City would need some "ramp up time." She felt that they were aggressive in the numbers presented. She said that the numbers reflect that the use of the center is growing rapidly, but that the City can only handle so much coming through the door at any particular time.

Mayor Kennedy inquired whether the Sports Management Group assumed the first year would be less until the facility has been operating for a while. He noted that the numbers presented does not identify the projections six months from now. The numbers give the City the indication that the demand exists for weddings and quincineras and that the future looks bright in this respect.

Ms. Spier indicated that typically, by year three, the City would be at its full capacity, ironing out all issues and utilizing all rooms. It was her belief that the Sports Management Group based their projections on where the City would be. She clarified that the Sports Management Group were reflecting a percentage of the year.

Council Member Sellers acknowledged that the City would be slow ramping up at the front end. He recommended that the City monitor the numbers closely, indicating that he was not overly concerned as the center has been opened for 3 months. If in 6 months from now, the City is facing a similar deficit, there would be a significant cause for concern. He asked if it would be possible for the City to get insurance to cover the \$100,000 deductible.

Finance Director Dilles said that the City has been working with a broker used by ABAG. The broker thought that he had identified an insurance company but that it was not fruitful. The broker is continuing to look for an insurance carrier who would cover the \$100,000 deductible. He said that staff is trying to find someone who would insure the \$100,000 deductible so that the City would not be out the deductible. However, the City has not been able to find an insurance carrier for the deductible.

Council Member Sellers referred to option A. He inquired whether staff was concerned that the projections were not being achieved because of the insurance requirements.



Ms. Spier said that insurance is an issue for the end user. She said that the rates will remain the same with the current insurance carrier but that staff hopes that it will establish a relationship where it can understand their quotes and be able to estimate insurance costs. She indicated that staff is encountering the same problems for outdoor events at city parks if alcohol is to be served.

City Attorney Leichter said that City Attorney for the City of Sunnyvale was surprised to learn that they do not require additional insurance for the use of their facility. This is a decision that they are revisiting at this time and that they would more than likely start to require some type of insurance coverage. She indicated that this is a risk assessment balance for the Council and its comfort level given the tightened insurance market as it has hit the users as well as the City. She said that staff is finding it difficult to find the correct insurance products. She said that the City requires users to sign a hold harmless indemnity clause that states that if anything happens, the user agrees to hold harmless and indemnify and defend the City. She said this clause is only as good as the personal asset of the person who signs the paper. She stated that it also places the City in a position to go against the individual's asset. She said that oftentimes, homeowners insurance will not cover these types of events. She would not put a lot of full faith and credit in the clause. Regarding the self insured aspect, if the City establishes the \$100,000 deductible, it was her understanding that if five individuals were injured at a party and all file claims, the City is out \$100,000 for each occurrence before ABAG comes (e.g., insuring when the incident reaches \$500,000). She indicated that the City has a claim made basis per occurrence.

Finance Director Dilles clarified that ABAG would insure per occurrence. He noted that the City would have \$100,000 on each claim. The City could have the exposure of this limit in a worse case scenario. He indicated that the City has \$10 million of ABAG coverage.

City Manager Tewes informed the Council that estimated revenues for the center is \$750,000 for a full year.

Mayor Pro Tempore Chang inquired as to the affect of changing the City's insurance policy. She felt that if the City could increase the use of the center to 100% from the current 31% it would be worth taking the insurance chance. If the City is only earning \$50,000 because the City changed the insurance policy, she may not support the change.

Ms. Spier indicated that she does not have a good response for Mayor Pro Tempore Chang because the City does not have enough history at the community center. She said that the City does not have anything extra to offer end users from those of other facilities. She noted that the City can charge insurance for the use of the community center and that a user will go to another facility in town that includes the insurance rate.

Mayor Kennedy felt that the community center has more to offer than other comparable facilities that seat the same number of people.

Ms. Spier indicated that she was addressing the typical wedding/reception and not the special use needs. She stated that the Sports Management Group based their fees on the wedding receptions, retirement parties, etc. She was not able to tell whether providing self insurance would allow 100% use of the facility.



Mayor Pro Tempore Chang indicated that she received an insurance quote for a smaller, public use facility for \$1 million liability insurance per occurrence and \$3 million aggregate. She recommended that the City investigate other insurance companies.

Mayor Kennedy inquired whether the City is limiting its insurance to ABAG.

Finance Director Dilles stated that he spoke to a couple of local real estate brokers and that what he has heard is that there are companies who will write special events insurance. However, the number of insurances that offer this particular type of insurance are leaving the state.

Mayor Kennedy stated that it was his recommendation that the insurance be left as is because Ms. Spier will be presenting a more in depth presentation on the community center next week. In the meantime, staff can investigate other insurance companies/options, including local real estate brokers and that staff not limit itself to the ABAG program.

Council Member Carr felt that the City needs to make an insurance change. If the City is able to change the insurance policy or how it views the City's insurance policy, the likelihood there would be an increase in rentals that would make it an acceptable risk to the City. He felt that the City could come up with something that would be accommodating and an acceptable risk.

City Manager Tewes said that the Council has requested additional information, noting that the staff report would need to be completed tomorrow. He said that staff would appreciate a chance to return to the Council in mid April.

Mayor Kennedy said that he would support allowing staff to take the appropriate amount of time needed to gather information. He said that this is a concern to everyone and that the City does not want to lose events in the community because the City is being too cautious, too protective and unwilling to take any risks; on the other hand, the City has to be prudent.

Ms. Spier informed the Council that one of the reasons that the insurance issue was brought before the Council this evening was to get a sense from the Council. She said that there may be creative opportunities that staff could present to the Council that would still pass the risk on to some other entity such as an RFP for the kitchen with a caterer insuring the event and taking care of the ABC requirements.

Mayor Pro Tempore Chang inquired whether the City is looking for liability insurance.

Finance Director Dilles responded that the City is looking for liability insurance as the City is trying to cover its risk if somebody gets hurt and sues the City. The City wants to shift the risk so that it does not come out of the City's pocket.

Council Member Sellers felt that there is a very fine line between the City being competitive with the unique product that it has versus subsidizing itself where it is taking business away from other entities in Morgan Hill. He said that when the Council performed the projections, it was with the understanding that the City would be adding to what was available in the community. He wanted to make sure the City stays in this arena and not cross over where the City is taking



business away that would otherwise go to other entities.

Mayor Kennedy opened the floor to public comment. No comments were offered.

**Actions:**      *By consensus, the City Council: 1) **received** the report; 2) **Provided** Direction to Staff as to Insurance Risk Level and Budget Impact Acceptable to City Council; and 3) **Directed** staff to return with additional information.*

## ***City Council and Redevelopment Agency Action***

### **CLOSED SESSIONS:**

Agency Council/City Attorney Leichter announced the following closed session items.

1.

**CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

Significant Exposure/Initiation of Litigation

Authority:            Government Code Sections 54956.9(b) & (c)

Number of Potential Cases:            2

2.

**EXISTING LITIGATION**

Authority:            Government Code section 54956.9(a)

Case Name/Number:      Santa Teresa Citizen Action Group et al. v. California Energy Commission (California Third District Court of Appeals, C041090); Santa Teresa Citizen Action Group et al. v. Hearing Board of the Bay Area Air Quality Management District (San Francisco Superior Court, CPF-02-50164); Santa Teresa Citizen Action Group et al. v. Calpine Corporation (Ninth Circuit Court of Appeals, 01-701611).

3.

**CONFERENCE WITH LABOR NEGOTIATOR:**

Authority:            Government Code Section 54957.6

Agency Negotiators:      Ed Tewes, City Manager; Helene L. Leichter, City Attorney; Mary Kaye Fisher, Human Resources Director

Employee Organization:      AFSCME Local 101  
Morgan Hill Community Service Officers Association  
Morgan Hill Police Officers Association

Unrepresented Employees:      Custodian/Building Maintenance Worker  
Government Access Technician  
Maintenance Worker Assistant  
Utility Worker Assistant

Executive Management Group 1-A  
Chief of Police  
Director of Business Assistance & Housing Services  
Director of Community Development  
Director of Finance  
Director of Public Works/City Engineer  
Human Resources Director  
Recreation and Community Services Manager  
Assistant to the city Manager  
Council Services and Records Manager



Middle Management Group 1-B

Police Captain  
Deputy Director of Public Works  
Assistant City Attorney  
Assistant Director of Finance  
Chief Building Official  
Human Resources Supervisor  
Planning Manager  
Senior Civil Engineer  
Budget Manager  
Business Assistance and Housing Services Manager  
Police Support Services Supervisor  
Senior Planner  
Project Manager  
Utility Systems Manager  
Recreation Supervisor  
Secretary to the City Manager

Confidential Non-Exempt Employees Group 1-C

Administrative Analyst  
Secretary to the City Attorney  
Accounting Technician  
Human Resources Assistant

**OPPORTUNITY FOR PUBLIC COMMENT**

Chairperson/Mayor Kennedy opened the closed session items to public comment. No comments were offered.

**ADJOURN TO CLOSED SESSION**

Chairperson/Mayor Kennedy adjourned the meeting to closed session at 8:45 p.m.

**RECONVENE**

Chairman/Mayor Kennedy reconvened the meeting at 10:15 p.m.

**CLOSED SESSION ANNOUNCEMENT**

Agency Council/City Attorney Leichter announced no reportable action taken in closed session.

**FUTURE COUNCIL-INITIATED AGENDA ITEMS**

No items were noted.



**ADJOURNMENT**

There being no further business, Chairperson/Mayor Kennedy adjourned the meeting at 10:16 p.m.

**MINUTES RECORDED AND PREPARED BY**

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**IRMA TORREZ, Agency Secretary/City Clerk**



**CITY OF MORGAN HILL  
JOINT SPECIAL AND REGULAR CITY COUNCIL AND  
SPECIAL REDEVELOPMENT AGENCY MEETING  
MINUTES – APRIL 2, 2003**

**CALL TO ORDER**

Mayor/Chairperson Kennedy called the meeting to order at 6:00 p.m.

**ROLL CALL ATTENDANCE**

Present: Council/Agency Members Carr, Sellers, Tate and Mayor/Chair Kennedy  
Late: Mayor Pro Tempore/Vice-chair Chang (arrived at 6:03 p.m.)

**DECLARATION OF POSTING OF AGENDA**

City Clerk/Agenda Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2

***City Council and Redevelopment Agency Action***

**CLOSED SESSIONS:**

City Attorney/Agency Counsel Leichter announced the following closed session items.

1.

**CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

Significant Exposure/Initiation of Litigation

Authority: Government Code Sections 54956.9(b) & (c)

Number of Potential Cases: 2

2.

**EXISTING LITIGATION**

Authority: Government Code section 54956.9(a)

Case Name/Number: Santa Teresa Citizen Action Group et al. v. California Energy Commission (California Third District Court of Appeals, C041090); Santa Teresa Citizen Action Group et al. v. Hearing Board of the Bay Area Air Quality Management District (San Francisco Superior Court, CPF-02-50164); Santa Teresa Citizen Action Group et al. v. Calpine Corporation (Ninth Circuit Court of Appeals, 01-701611).

3.

**CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

Legal Authority: Government Code Section 54965.9(a)

Case Name: Santa Clara Valley Audubon Society v. City of Morgan Hill

Case No.: Santa Clara County Superior Court, No. CV 815655

Attendees: City Council, City Manager, City Attorney



4.

**CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Authority:	Government Code Section 54956.8
Property:	APN 726-15-069, located on the west side of Butterfield Boulevard, 1200 feet south of Main Avenue.
Agency Negotiators:	City Manager
Parties:	Valley Transportation Agency (VTA)
Under Negotiation:	Price, Terms of Payment

**OPPORTUNITY FOR PUBLIC COMMENT**

Mayor/Chairperson Kennedy opened the closed session items to public comment. No comments were offered.

**ADJOURN TO CLOSED SESSION**

Mayor/Chairperson Kennedy adjourned the meeting to closed session at 6:02 p.m.

**RECONVENE**

Mayor/Chairperson Kennedy reconvened the meeting at 7:08 p.m.

**CLOSED SESSION ANNOUNCEMENT**

Mayor/Chairman Kennedy indicated that closed session items were continued to the conclusion of the open session meeting.

**SILENT INVOCATION**

**PLEDGE OF ALLEGIANCE**

At the invitation of Mayor/Chairperson Kennedy, Police Reserve Brian Kwong led the Pledge of Allegiance.

**PROCLAMATIONS**

Mayor Kennedy presented a Certificate of Recognition to Retired Reserve Officer Sam Leyva for years of service.

**RECOGNITIONS**

Mayor Kennedy recognized the outstanding contributions of the volunteer Committee Chairpersons who made the Community and Cultural Center Grand Opening Day a wonderful success. Those persons recognized and presented with a Certificate of Recognition were: Daryl Manning, Sheryll Bejarano, Irma Torrez, Jay Jaso, Rosemary Rideout, Lorraine Welk, the Youth Advisory Committee, Alisha Simms, Lanae Bach, Lorraine Welk, Laura Brunton, Mitch Mariani, Chiquy



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Schoenduve, Nancy Harris, Sharon Leonard, William Keig, Wes Rolley, Sue Woolsey, and Bob Snow.

### **CITY COUNCIL REPORT**

Council Member Carr reported on two issues: 1) County-wide Committee that addresses Housing and Community Development Block Grant funds and their use. He indicated that this committee will be meeting tomorrow night to decide on its recommendation to the Board of Supervisors on how the funding will be allotted. He stated that there are Morgan Hill housing projects on the list to receive funding, including some projects that the Council has reviewed and supported. It was his hope that the Committee will move forward with the recommendation to provide funding to Morgan Hill housing projects. 2) He stated that the Morgan Hill Unified School District is going through a process of looking at boundaries for all schools. He noted that the School District is building a second high school that is planned to be opened in 2004. The School District knows that they will have to change boundary lines for the high schools and have decided to look at all of the schools throughout the District and give thought to how they will draw boundary lines. He indicated that the School District has invited City Manager Tewes, School Resource Officer Rojas and himself to serve on this committee to look at these lines. He said that staff from the School District as well as their transportation department are involved in the review process and includes principals and parents. He said that there were no representatives from the City three or four years ago when the boundaries were changed. Should individuals be interested in learning more about this issue, he recommended that they contact the School District.

### **COUNCIL SUBCOMMITTEE REPORTS**

No reports were noted.

### **CITY MANAGER'S REPORT**

City Manager Tewes indicated that he did not have a report to present this evening.

### **CITY ATTORNEY'S REPORT**

City Attorney Leichter stated that she did not have a report to present this evening.

### **PUBLIC COMMENT**

Mayor/Chairperson Kennedy opened the floor to comments for items not appearing on this evening's agenda. No comments were offered.

### ***City Council Action***

### **CONSENT CALENDAR:**

Council Member Tate requested that item 8 be removed from the Consent Calendar.



**Action:** *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Chang, the City Council unanimously (5-0) **Approved** Consent Items 1-7 as follows:*

1. **APPROVAL OF CONSULTANT AGREEMENT TO PROVIDE DESIGN FOR THE 2002-2003 PAVEMENT RESURFACING PROJECT**

**Action:** *1) **Approved** Consultant Agreement with Harris and Associates to Provide Design Services for the FY 2002-2003 Pavement Resurfacing Project; and 2) **Authorized** the City Manager to Execute the Agreement, Subject to Review and Approval by the City Attorney.*

2. **APPROVE FINAL MAP FOR MORGAN LANE PHASE II (TRACT 9474)**

**Action:** ***Authorized** the Recordation of the Map Following Recordation of the Development Improvement Agreement.*

3. **AWARD CONTRACT FOR CONSTRUCTION OF BUTTERFIELD BOULEVARD – PHASE IV IMPROVEMENTS PROJECT**

**Action:** ***Awarded** Contract to Granite Rock Company, dba Pavex Construction Division, for the Construction of Butterfield Boulevard – Phase IV Improvements Project in the Amount of \$3,496,410.*

4. **AWARD OF CONTRACT FOR MODIFICATION OF LIFT STATION B SEWAGE PUMP STATION**

**Action:** ***Awarded** Contract to Trinet Construction, Inc. for the Construction of Modification of Life Station B Sewage Pump Station in the Amount of \$448,000.*

5. **VACATION OF A PORTION OF A STORM DRAIN EASEMENT ON LOT 45, TRACT NO. 7679**

**Action:** *1) **Adopted** Resolution No. 5663 Declaring Summary Vacation of a Portion of a Storm Drainage Easement on Lot 45, Tract No. 7679, 1180 Castle Lake Circle; and 2) **Directed** the City Clerk to File a Certified Copy of the Resolution in the Office of the County Recorder of the County of Santa Clara.*

6. **TEMPORARY COUNCIL ASSIGNMENT TO MORGAN HILL COMMUNITY HEALTH FOUNDATION (MHCHF) AND APPOINTMENT OF MAYOR AS ALTERNATE TO THE SOUTH COUNTY REGIONAL WASTEWATER AUTHORITY (SCRWA)**

**Action:** *1) **Approved** Temporary Change in Council Assignment to the MHCHF; and 2) **Approved** Mayor's Appointment as an Alternate to SCRWA.*

7. **ADOPT ORDINANCE NO. 1611, NEW SERIES**

**Action:** ***Waived** the Reading, and **Adopted** Ordinance No. 1611, New Series, and **Declared** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING ORDINANCE NO. 559 NEW SERIES, BY ZONING PROPERTIES IN VARIOUS LOCATIONS THROUGHOUT THE CITY TO MAINTAIN CONSISTENCY WITH THE GENERAL PLAN. (ZA-02-21: CITY*



*OF MORGAN HILL-AMENDMENT OF ZONING MAP).*

**8. MINUTES OF SPECIAL CITY COUNCIL MEETING OF MARCH 19, 2003**

**Action:** *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Chang, the City Council on a 4-0-1 vote with Council Member Tate abstaining, Approved the Minutes as Written.*

***Redevelopment Agency Action***

**CONSENT CALENDAR:**

**Action:** *On a motion by Agency Member Sellers and seconded by Vice-chair Chang, the Agency Board unanimously (5-0), Approved Consent Items 9, as follows:*

**9. AUTHORIZATION TO APPLY FOR AND ACCEPT A CalHFA HELP LOAN FOR HOUSING PROJECTS**

**Action:** *1) Adopted Resolution No. MHRA-243 authorizing the Executive Director to apply to the California Housing Finance Agency (CalHFA) "Help" Program for a Loan of up to \$1 million; and 2) Directed the Executive Director to do Everything Necessary to Execute the Loan with CalHFA, if Awarded.*

***City Council and Redevelopment Agency Action***

**CONSENT CALENDAR:**

Council/Agency Members Carr and Tate requested that item 10 be removed from the Consent Calendar.

**10. MINUTES OF SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING OF MARCH 19, 2003**

Council Member Carr referred to page 31 of the Minutes. He noted that the second action taken on this page describes an increase to development impact fees. He requested clarification whether this was the action taken as part of the motion.

City Manager Tewes indicated that the recommendation from the Parks and Recreation Commission included consideration of a proposal which would eventually increase the fees. However, to increase the fees, the City would need to conduct the proper study and hold a public hearing. He said that as part of the budget process, the Council/Agency Board would be able to take this action on a formal basis. He clarified that the Council did not increase the fees on March 19, 2003.

Mayor Pro Tempore agreed that the Council did not increase the fees but that the Council did accept the recommendation of the Parks and Recreation to increase the fees.



**Action:**        *On a motion by Council/Agency Member Sellers and seconded by Mayor Pro Tempore/Vice-chair Chang, the City Council, on a 4-0-1 vote with Council/Agency Member Tate abstaining, **Approved** the Minutes, amending the second action to state that the Council would initiate a process to increase the fees.*

## ***City Council Action***

### **PUBLIC HEARINGS:**

#### **11.    ZONING AMENDMENT APPLICATION, ZA-02-18: COCHRANE-IN-N-OUT BURGER/ APPLEBEE’S**

Mayor Kennedy indicated that a request has been made to continue this item.

Mayor Kennedy opened the public hearing. No comments were offered.

City Manager Tewes informed the Council that the applicant has requested that this item be continued to April 16, 2003. He suggested to the applicant that as this is the second request for continuance the Council might pick an alternate meeting date.

**Action:**        *On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) **Continued** the public hearing to April 23, 2003.*

## ***City Council Action***

### **OTHER BUSINESS**

#### **12.    CITY DIVERSION RATE**

Assistant to the City Manager Eulo presented the staff report, indicating that the community has fallen below the 50% diversion rate. He felt that the City needs to do more to divert waste. He explained staff's perspective on why the rates dropped: 1) increase in waste disposal; 2) jobs were down in 2001 from 2000; and 3) recycling tapered off. He noted that recycling continues to increase as expected with population increases. He indicated that the City has a citizen solid waste advisory committee who has come up with great ideas on approaches to take such as a gold star program; and/or rely on antidotal information. He said that this advisory committee will be looking at the antidotal information next week and provide him with feedback regarding which campaign they believe the Morgan Hill populace would be most appreciative and responsive to.

Mayor Kennedy inquired if staff has resent updated recycling brochures that show the various recycling opportunities in Morgan Hill.



Mr. Eulo stated that the inside of the annual recycling calendar includes a spread on what citizens can do to recycle. He indicated that he has budgeted funds to produce another poster. He said that he wants to add an additional commodity to the curb side mix before producing a poster.

Mayor Kennedy said that the poster was helpful to know what can be recycled. He felt that the education and information process is helpful. He inquired whether there was an attempt to reach out to school/students.

Mr. Eulo stated that the City has a project taking place in every school, indicating that the elementary schools are focusing on an art aspect. He said that students will be using recycled beverage containers to make art. In addition, next year, using the same grant funds from the Division of Recycling, staff is looking at a science fair project at the schools that will also encourage the use of recycled materials in science projects.

Council Member Sellers said that it has been five years since the City first started to gear up and provide residents with recycling containers. He inquired how the City can get the word out that citizens can replace or secure additional containers.

Mr. Eulo advised that citizens can contact City staff for additional/replacement recycling containers.

Mayor Kennedy opened the floor to public comment.

Emily Trusdale, Live Oak High School student, did not believe that a star on a trash can would encourage citizens to recycle. She felt that people should recycle because it is good for the environment and not to attain a gold star.

Council Member Sellers felt that if individuals see stars in the neighborhood it will remind/encourage others to recycle.

Mayor Kennedy said that the City is having a problem because the City is required by law to divert/recycle over 50% of our waste. He indicated that the City is not achieving the 50% diversion rate. He requested that individuals provide him with suggestions on how to encourage citizens to do a better job of recycling, noting that these are just some suggestions.

No further comments were offered.

Council Member Tate said that he was disappointed when he first heard that the City fell below the 50% rate. He was pleased to hear staff's explanation of the circumstances. He stated that it does seem that the commitment to recycle has fallen as you see more of the recyclable items in the regular trash. He felt that programs will keep the focus/attention on recycling. He recommended that the City continue to remind citizens to recycle. He felt that the goal is to achieve 100% recycle.

Mayor Kennedy said that another way to reward individuals who recycle is to reduce the rates for those who have the least amount in volume waste. This was proposed by the Council initially,



however, a lot of individuals were concerned about this alternative because some families have more waste than others out of necessity. The Council has avoided a mandatory program that lowers the rate based on recycling efforts. If the City is not able to achieve the state mandated rate, the City may need to reconsider rates. He said that the City is relying on the public/community's support to use the recycling opportunities in place. If we do not, the City may be mandated by the State to change from a voluntary program to something more difficult.

Council Member Sellers recommended that staff publicize "feel good" promotions to recycling. He said that if citizens do not recycle, the Council may be forced to increase rates and be forced to look at alternatives. He said that some individuals may not respond to a "save the world" message but may respond to keeping rates low.

**Action:** *It was the consensus of the Council that staff was on the right track in providing citizens with more information, encouraging citizens to recycle more.*

### **13. ORDINANCE DELETING THE PERSONNEL COMMISSION**

Human Resources Director Fisher presented the staff report and recommended that this commission be abolished.

Mayor Kennedy opened the floor to public comment. No comments were offered.

**Action:** *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0), **Waived** the Reading in Full of Ordinance No. 1613, New Series.*

**Action:** *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0), **Introduced** Ordinance No. 1613, New Series, by title only, as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL DELETING CHAPTER 2.48 (Personnel Commission) OF TITLE 2 (Administration and Personnel) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL ESTABLISHING THE PERSONNEL COMMISSION** by the following roll call vote: **AYES:** Carr, Chang, Kennedy, Sellers, Tate; **NOES:** None; **ABSTAIN:** None; **ABSENT:** None.*

### **14. REVIEW OF DRAFT EIR FOR THE MORGAN HILL COURTHOUSE**

Planning Manager Rowe presented the staff report.

Mayor Kennedy inquired whether the Environmental Impact Report (EIR) can be used as a mechanism to attain additional focus on getting Caltrain service to coincide with the hours of operation for the courthouse.

Planning Manager Rowe responded that the EIR could be used as a way to argue for an enhancement of Caltrain services. He stated that one of the unmitigated impacts noted in the EIR



was impacts on air quality as a result of vehicle emission. To the extent that Caltrain service can be enhanced to provide another legitimate alternative to using the automobile, this would help the overall air quality.

Mayor Kennedy recommended that the applicant be asked to approach the Valley Transportation Authority (VTA) and Caltrain to make the request that services coincide with the hours of operation to that of the courthouse.

Planning Manager Rowe indicated that staff would include Mayor Kennedy's recommendation in the comment letter.

Council Member Carr said that in doing so, he hopes that the City would be asking for expanded service and not changing the limited service that exists today. To do so would dramatically impact the use that Morgan Hill residents currently have of the train service.

Council Member Sellers noted that the only significant impact on the courthouse would be the reverse of the service that is in place. He felt that it would be appropriate to push for enhanced Caltrain service.

Mayor Kennedy opened the floor to public comment. No comments were offered.

Council Member Carr noted that the current courthouse design includes a detention facility for a 25-year flood and that staff is requesting a 100-year flood. He inquired if staff's request would quadruple the size of the detention facility.

Planning Manager Rowe indicated that the 100-year flood could be achieved by increasing the depth of the facility.

Director of Public Works Ashcraft said that the difference between a 25-year storm and a 100-year storm is usually only 20-25% and is based upon specific hydraulic studies of the area. He clarified that it is not built four times larger. In response to Mayor Kennedy's question, he stated that underground storm water retention was as acceptable as an open pit. In this case, it was his belief that the County was talking about an area for future parking. He felt that it would be more cost effective to construct an open ground storm water retention rather than a buried pipe or a box if the County needs additional parking in the future. He said that it would be an issue of land value versus construction costs.

Council Member Sellers appreciated that staff addressed the parking issue, particularly in the downtown. Although the City did not officially address the parking availability of VTA and some of the adjacent areas, it was his belief that there was anticipation, to some degree, that the parking would be used and be made available. He recommended that the City address access to the parking at the courthouse. He understood that the judges may require a secured parking area. If the balance of the parking spaces are secured or are inaccessible from downtown, this would be a concern. He said that it was his belief that the EIR stated that the increase in the number of individuals from this facility is concentrated when individuals arrive who would work at the facility, including jurors and



others. He felt that this would be an intense period of time, particularly at Monterey and Main.

Planning Manager Rowe indicated that the report states that there are only 12 parking spaces located in a secured area and the rest of the parking would be located in an unsecured area. He indicated that staff would like to get a sense of the project's impact to the intersection of Monterey and Main since it was not evaluated. In terms of being able to make improvements, the City would have to remove some of the public improvements installed in the downtown to create a dedicated turn lane that would be needed for left turn movements. He said that the City needs to know what impacts this project would have to the intersection before discussing mitigation measures.

Council Member Sellers stated that another issue that needs to be addressed are the changes that were discussed at the March 26 Council/County workshop that would have significant impacts on traffic flow on ingress/egress as well as access to the site. He said that he is noticing an impact to Butterfield Boulevard already. He was anxious about making other changes that may not be addressed if changes are made after the approval of the EIR. If an egress is provided north of Diana/Butterfield, it may necessitate another traffic signal or another mitigation measure. He inquired whether this would be addressed in the EIR or whether the City would wait to determine how the traffic impact would be addressed.

Planning Manager said that to the extent the City knows what the future improvements are to be, staff could communicate them to the consultant. The consultant could review the improvements in terms of cumulative build out.

Council Member Sellers stated that it was his belief that the Council shares a goal in the layout of the building but that he was concerned that in achieving the goals of moving the buildings it would have traffic impacts that would not be addressed if the EIR has been completed. He did not want to end in a worse situation than is already seen in the EIR.

Mayor Pro Tempore Chang said that she viewed a reverted plan alternative with the inclusion of a fire station. She inquired whether siting a fire station adjacent to the courthouse would affect the EIR.

Planning Manager Rowe indicated that the fire station scenario would not have an affect on the EIR other than stating that the ½ acre that is considered as surplus land would be needed to provide required parking based on the use of the facility by the year 2020. He said that the EIR states that there would be noise impacts by having the fire station next to the railroad tracks. He stated that mitigations have been included to address noise through the reduction of sound transmission to the living spaces of the station that would be the responsibility of the City to carry out. He said that the ½ acre surplus land could allow for a fire station to be built with a separate driveway accessing Diana to serve a fire station. The EIR states that the County will expect to need the ½ acre site and that the City should not locate a fire station on site.

City Manager Tewes said that if the City is to pursue a separate fire station, the City would have to undergo an environmental review.



Mayor Pro Tempore Chang inquired whether a detention adjustment would be needed for the fire station.

Planning Manager Rowe said that the EIR included a 3,000-5,000 square foot fire station building and that the run off would be provided off site.

Council Member Chang inquired as to the stage an individual would be required to pay for flood insurance (e.g., at 25-year or 100-year flood).

Planning Manager Rowe responded that the flood insurance requirements are imposed to properties located in the flood plain area, the 100 year storm event. However, this site is not located in the flood plain. As the City does not have an outflow for the storm water run off, public works staff is stating that the sizing of the on site retention basin needs to be capable of holding a 100-year storm event. He said that if any of the run off from this site was to go to the Butterfield Channel, it could result in downstream flooding because the Butterfield Channel would exceed its capacity. In order to mitigate any potential for downstream flooding from run off of this project, this project has to accommodate 100% of its run off; to accomplish this would necessitate over sizing the retention facility on site. He indicated that when Butterfield is connected and has an outfall to Llagas Creek, there would not be a need to store as much storm water on site. The storm drain could be reduced in size or eliminated in the future.

Mayor Kennedy referred to the vehicle transportation traffic portion of the EIR. He inquired as to the times the trip generations are occurring and whether they would conflict with commute hour traffic. He noted that the EIR does not state hours. He inquired what time the jurors typically arrive and where are they coming from.

Planning Manager Rowe responded that the a.m./p.m. hours are typically between 6-9 a.m. He stated that he did not have specific answers to Mayor Kennedy's questions but that he would look into the questions. He said that the Planning Commission reviewed the EIR last Tuesday. He indicated that the Commission did not provide comments as a group. However, he did receive individual comment letters from two Commissioners and that he plans to forward these letters as public comments on the draft EIR.

Mayor Kennedy wanted to know the time peak traffic hours occur. If it is 8:30 a.m., it is not nearly as bad as 8:00 a.m. when parents are taking their children to school and commuters are going to work where the courthouse traffic would conflict with other traffic. He said that VTA's Route 68 that comes from Gilroy to San Jose could be heavily used, noting that it currently goes through downtown Morgan Hill. He felt that it may be appropriate to route Bus 68 through Butterfield and take it in front of the train station.

Council Member Sellers noted that the bus stops at the Community Center and Rosy's at the Beach. He did not believe that the bus route enhances retail sales and that it creates other issues with the concrete padding. However, he felt that there needs to be access to the bus and that this may be a way to divert traffic.



Mayor Kennedy recommended that Bus 68 goes from Monterey to Dunne Avenue onto Butterfield Boulevard and that the bus goes into the Caltrain station. Individuals can access the downtown from this area by bus. He requested that this be incorporated as a suggestion as part of the mitigation measures as well.

Council Member Tate inquired if there was a noon peak hour traffic. He felt that the courthouse orientation issue would place an impact on individuals getting into their cars and driving somewhere for lunch as there is no convenient way to walk to lunch. He inquired if this could be included into the EIR response.

Planning Manager Rowe responded that the City could request that the evaluation also include a noon peak hour impact based on the characteristics of the use.

Mayor Kennedy said that there would be a mitigation to this problem by flipping the orientation of the entry of the courthouse. He felt that placing the entryway closer to the downtown would encourage jurors to walk to the downtown. If the entryway is sited at the corner of Diana and Butterfield, it would encourage jurors to get into the cars versus walking to a restaurant. He said that the vehicle trip generation contained in the report only identified a.m. and p.m. peak hour traffic and does not include mid day peak hour traffic.

Council Member Sellers stated that at the workshop, the Council concurred that individuals should be encouraged to walk downtown. He said that the noon hour may be an impact as far as parking and would require individuals to drive to find parking spaces.

Council Member Carr inquired whether the EIR addressed what times the prisoners would be brought to the facility. If so, would these times coincide with peak traffic times as his concern was that of aesthetics of the bus transporting defendants in custody?

Planning Manager Rowe said that the EIR indicates that prisoners would be brought to the facility at the beginning of the day. He said that defendants are brought to the facility at the start of the business hour (8:00 a.m.) and that they are transported back to the County jail facility in the evening or after the disposition of their case.

Mayor Pro Tempore Chang referred to the impact fees for storm water, water, and waste water. She inquired whether these would be the City's or County's expense.

City Attorney Leichter said that this is an issue that the City has raised with County Counsel as to whether the County is obligated to pay City impact fees. She said that this is an issue that is under consideration by their office. However, staff felt that it was appropriate to raise the impact fees in the draft EIR so that the impacts upon the City's public facilities and systems are noted in the EIR. She said that normally, this would require a mitigation or that a mitigation would be included that would require payment of impact fees to offset the significant impact. Staff noted that this was not included in the EIR; therefore, staff felt that it was appropriate to include a comment to this fact. She said that it would be the County's responsibility to pay the impact fees.



Mayor Kennedy noted that it is stated that the project's peak parking demand exceeds the proposed off street parking supplied on the site. The County is proposing to install gravel on the ½ acre surplus land. He inquired whether this was the detention facility.

Planning Manager Rowe indicated that the storm drain is proposed in area 12. He said that should the County feel that they need the area; it would be prudent to develop the parking area. Doing so would preclude the location of a fire station on site.

Mayor Kennedy indicated that the Council has agreed that the fire station would no longer be proposed on the Courthouse site. He said that the Council is considering acquiring the adjacent parcel for a fire station. He inquired whether the City should go back to the County to advise them that there is no longer a need to retain the ½ acre area for a possible fire station so that the County can pave this area.

City Manager Tewes stated that Mr. Carruth advised the City that in 2020, the County would need the additional ½ acre for parking and that it was their intent to reserve this area for parking. Therefore, the County already informed the City that there was not an opportunity for a fire station on the ½ acre area. In the subsequent session, the Council, indicated that if the City was able to provide a fire station site in the area, it would be on the VTA property located to the north. He said that staff could clarify this fact with the County.

Planning Manager Rowe said that the area proposed to be paved would still result in under parking per County standard. If the City no longer has a need for the ½ acre surplus area for a fire station, he recommended that the City forward this information to the County. He felt that the impact to downtown parking would be reduced if the project provided on site parking in the facility the County develops.

Mayor Kennedy recommended that staff notify the County that it is the City's proposal to site the fire station on the adjacent parcel.

Council Member Carr noted that at the workshop held last week with the County, alternative designs were discussed that affected the layout of the two buildings with the idea that the City would try to purchase the land immediately to the north to develop a fire house or other public use. He inquired how these changes would affect the EIR.

Planning Manager Rowe said that as long as the basic parameters of the building/site layout design remains the same, no revisions to the EIR would be required in terms of the exhibits. He did not believe that the discussed changes would be significant enough to require a recirculation of the EIR or any portion thereof. He indicated that he was not privy to how extensive the changes would be and that they would need to be examined.

Mayor Kennedy requested that Planning Manager Rowe take a look at the design prepared by Mr. Dumas. He requested that staff include in its comment letter the Council's preference of an alternative plan, should the Council be supportive of it. He felt that the alternate plan would encourage lunch hour pedestrian traffic to walk to a restaurant or a place to have something to eat



rather than getting into their cars. This would avoid additional traffic and air pollution.

Council Member Carr said that his biggest concern is the lack of orientation to the downtown. He understood that this is a valued piece of property to the County based on the intersection of Diana and Butterfield. He noted that the current orientation is toward the corner of Diana and Butterfield, a design that is not advantage to the downtown. He said that individuals supported this project based on its relationship to the downtown. He requested that a relationship of this project to the downtown be addressed and talked about in the EIR, especially if this is a facility that the community of Morgan Hill is expecting to be around 50-100 years adjacent to the downtown. He felt that the Council should be striving to make sure that this is what is achieved from the project.

Mayor Kennedy felt that the peak traffic congestion would occur at Dunne and Butterfield for individuals coming south or the north of Morgan Hill. He inquired whether the traffic movement was consistent with what was shown for the peak hour traffic.

Council Member Carr agreed that the current traffic heading west on Dunne and turning north onto Butterfield backs up the right hand turn lane past the entrance to the Creekside development, noting that complaints have been received from residents trying to get out of this development in the morning because of traffic. He said that when Highway 101 north opens up, some of this traffic would lessen. Adding an employee/juror count at the peak hour would have an effect on the Dunne and Butterfield intersection as well as the Diana and Butterfield intersection.

Planning Manager Rowe indicated that the EIR contains a figure 4 located on page V-E-7 that confirms the Mayor's observations as far as a.m. peak traffic impact.

Mayor Kennedy requested that staff take a closer look at the Dunne and Butterfield intersection to see if it in fact makes sense. He said that intuitively, based on City experience, it is known that a problem exists at this intersection. He felt that a mitigation(s) needs to be incorporated.

**Action:**        *By consensus, the Council **Received** Public Comments on the Draft EIR; and **Provided** Comments to Staff for Assessment in the Final EIR as stated above.*

Mayor Pro Tempore/Vice-chair Chang excused herself from the remainder of the meeting.

Council Member Carr said that at last week's workshop with the County, County staff requested that should the City decide to purchase the property to north, that the City get back to them with its thoughts. He inquired whether the Council needs to take action on this or whether staff is taking the lead on the site to the north. He noted that a suggestion was made to hold a special meeting to discuss options.

Council Member Sellers said that an offer was made that if the County felt that it was of value, the Council would try to accommodate a special meeting. He felt that it would be valuable to express the Council's interest.

City Manager Tewes indicated that the Council previously directed him to make a proposal to VTA.



Based on the workshop, it is his hope to get a preliminary answer from VTA, noting that the initial answer from VTA a couple of months ago was that they were not interested in selling the land. Staff initiated contact with VTA and that there may be a possibility that they would be interested in selling the land. It is his hope to get an initial answer prior to April 9. He stated that at the workshop, the Council raised a number of concerns about design issues and the architects for the County indicated that they would go back and think about how best to respond to the Council's concern and check with the County on how best to convey their response, if they had one, back to the City with the understanding that April 9 was an important milestone in their planning process as well. He informed the Council that staff has not yet heard back from the architect nor the County on how or whether they intend to respond. He indicated that April 9 is an available date for a special meeting to deal with this issue.

Mayor Kennedy said that another issue raised was that of the site layout. The Council suggested a specific layout and that the City offered to come up with a layout.

City Manager Tewes said that Mayor Kennedy specifically asked staff to draft a site layout, indicating that staff has prepared a draft and that it is available for Council review. He requested Council direction on what to do with the draft layout.

Mayor Kennedy said that staff's alternative site layout provides a much better layout in terms of the City's needs than the current layout as proposed by the County.

Council Member Tate felt that the Council addressed the issues in terms of the design of the building and the proximity of the project to the downtown that was discussed through the EIR process. He stated his support of turning the building around. He strongly supported the location of the fire house in this corridor. He indicated that the City has been informed that there is no possibility of placing the fire house on the courthouse site. He did not see another alternative other than to try to purchase the VTA land as a location for the fire house as it is essential to the implementation of the City's fire master plan. He supported the Council's recommendation to reverse the building as well as the comments made on the design of the project in addition to locating a new fire house in this area.

Council Member Sellers shared the goal of increasing access to the downtown. He stated that he remains concerned about two issues raised at the workshop that need to be dealt with: 1) internal flow of traffic through the parking site. He indicated that most of the traffic will end up at the courthouse facility if accessed from Butterfield and Diana. He felt that the design limits drop offs to the facility. 2) Concern with traffic at Butterfield, limiting egress/ingress if the project does not make Diana and Butterfield the primary access. He felt that the City needs to state its goals clearly to the County and show them alternatives as a good faith effort, identifying the City's goals. He shared Council Member Tate's concern about the fire station site. He felt that there would be other logistical problems that arise by having the fire station right next to the main hub of the courthouse facility. He recommended that the City indicate to the County that the City is actively pursuing the VTA land for acquisition and present the County with the City's alternate plan as a good faith effort to see what they come up with in order to accommodate the City's goals.



Council Member Carr stated that this has been a difficult issue for everyone. He felt that everyone has worked well in trying to come up with positive ways for improving the site, working with the County on the layout with the idea of the courthouse and the adjacent facilities meeting Morgan Hill's needs, the County's needs, and eventually the State's needs. He stated that he walked away from the workshop last week being convinced more than ever that this is the wrong site for this project. This being said, he said that he continues to find positive ways to provide comments and input to the site and make it as acceptable as possible. He agreed that the City identified this area for a fire station and a police station. He said that the City has given up on its interest in placing a police station on this site because it was not going to work. Now, the City is struggling with how to site a fire station in this area. He felt that the Council needs to be able to express this fact. He felt that the community and County needs to understand this as the City and County tries to work and make this project come together. He stated that the greatest emphasis of the County project needs to be its relationship to the City's downtown and how this works. He noted that the Design Guidelines state that the City wanted two fronts. It is his hope that the County's architect will be able to come up with two fronts. He stated that the City cannot forget that on the other side of the courthouse facility is a residential area that is concerned about this project. He felt that the City needs to acquire the property to the north and that it should be the City's first goal to fit a fire station. Even if not built as a fire station, he felt that the VTA land would still be a valuable piece of property for the City. He felt that the City should find space for a fire station in close proximity as a goal that needs to be addressed.

Mayor Kennedy stated that he heard strong support for the fire station being in this area from Council Member Tate. He also heard support for a layout that brings the entryway closer to the City's pedestrian walkway. He felt that Council Member Sellers was in general support of this, but that he was not necessarily tied to this layout, wanting to give the County and the architect flexibility in their design. He felt that the Council was in general agreement regarding its comments.

#### **15. MEASURE P UPDATE – STATUS**

Director of Community Development Bischoff walked the Council through the draft amendments that the Measure P Update Committee (Committee) will be recommending to the Council in June to be placed in the ballot later this year or potentially the beginning of next year. He indicated that last July the Council appointed a Measure P Update Committee specifically asking them to look at changes that might be placed to the voters. He said that the Committee has identified 27 separate sections of Measure P that they propose be amended. The purpose of the meeting this evening is to bring the Council up to speed on what the changes are and to solicit input from the Council should it feel that the Committee is not heading in the right direction or whether there were other types of amendments that the Council believes that the Committee has not considered to date. He indicated that the Planning Commission reviewed the changes on March 25 and that the staff report includes the Commission's recommended amendments. He indicated that the City conducted a community survey of the proposed amendments to try to gauge community support of the amendments. He stated that a law firm has been hired to assist the City in drafting the proposed amendments into initiative language. He said that the initiative language, as well as the results of the community survey and the comments from the Planning Commission and the City Council, will be considered



by the Committee later this month. He said that on April 29, the Committee plans to hold a community workshop as another forum for obtaining community input with respect to the amendments being proposed. He stated that there are two effects the amendments have that the Council will not see itemized but are secondary effects of the proposed amendments. One has to do with meeting ABAG's fair share housing allocation. He stated that based upon the amendments being proposed, it would be possible for the City to meet ABAG's fair share of housing allocation by extending the population of 48,000 to year 2020 and would be consistent with the General Plan. The other issue deals with the east/west Monterey Road split, indicating that there is a proposed amendment to eliminate the east/west split that exists today. Elimination would have the effect of a need to expend the City's urban service area.

Council Member Tate thanked Mr. Bischoff for his support of this Committee and for keeping the Committee on track. He said that this has been one of the most challenging sub committee assignments that he has had as a Council Member in terms of trying to reach an agreement. He said that the Committee reached consensus to most proposed amendments but not generally unanimous consensus. By the time the Committee concluded their review of the proposed amendments, they were comfortable that they could support the position that the Committee came to.

Council Member Carr agreed that this was a very large committee based on the Council's need to have representation from a broad section of the community. He agreed that this was a challenging Committee, indicating that the committee received public comments.

Director of Community Development Bischoff walked the Council through the proposed amendments as follows:

1. Committee encourages the Council to establish the downtown area as an area that is consistent with the downtown as defined by the Downtown Task Force (bound by Del Monte on the west, Butterfield on the east, Main Avenue to the north and Dunne Avenue to the South). The Commission is not asking that the description be placed on the initiative because they realize that over time, as the downtown develops, the Council may want to expand the area.

Council Member Sellers stated that the Downtown Plan primarily talks about the defined area but that there was discussion regarding the definition being expanded to areas south to Tennant and north as far as Cochrane Road in order to address street improvements and housing opportunities (blocks north and blocks south of Main and Dunne). He was pleased to hear that the downtown area was not going to be specifically defined at this time.

Council Member Carr stated that Council Members comments were important to the Committee as well and that it did not want to spend a lot of time defining the downtown as there is already a task force defining the downtown.

2. This section identifies that there are certain areas outside the City that receive city services: Holiday Lakes Estate (unit I), Casa Lane, and El Dorado III. Measure P amendments proposes to remove hurdles to annexation and would not count against the Measure P



population cap and would not meet the definition of Desirable Infill.

Council Member Sellers said that annexation of these areas would increase the population cap to 48,293. He wanted to make sure that the City is not pretending that these numbers do not exist or that there are two sets of population numbers being worked off of.

3. A number of the changes are not so much changes as they are clarifications. This section is one that is unclear/ambiguous. This section would allow for allocations to be determined once every two years and that allocations be given on a two year basis instead of annually. The proposed language would clarify that should the Council wish to conduct two year competitions, that it can certainly do so and that the Council determines the population once every other year. The amendment would also tighten up the way by which the City determines the number of permits that can be allocated in a given year. He said that there have been some concern expressed that the City has over built in some years. He said that there are a number of things that go into building; some having to do with the idiosyncrasies of the formula such as allocations awarded that have not been built and units exempt from Measure P, and the actual population per household of the new homes being built. There would be changes to the formula that would take these things into account so that the City can be more accurate in determining the number of annual allocations. Also, to be taken into account is the annexation of any developed areas such as Holiday Lake Estates or El Dorado III.
4. Deletes the east/west split. It has been found that there is a much smaller supply of vacant residential land on the west side of Monterey Road. Should the City want to retain the east/west split and keep the requirement that 1/3 of the units be built on the west side, he said that the City would be going into environmentally sensitive areas that the City would prefer not to develop in. He said that there are other flat lands that do not have the types of environmental constraints that other lands have that might be better to develop first.

Council Member Tate said that another aspect of the proposed change is that you would take the highest scoring projects on the east and the highest scoring projects on the west. He said that the east side has a lot of available land; therefore, the projects that compete score in the 180s. On the west, a project may only be the only application and receive allocation on a passing score, resulting in the City not getting the best possible projects. Having projects compete city-wide would be better in terms of getting high scoring projects and the benefits that come with the project.

Council Member Carr said that some Committee members saw the east-west split as taking away from the priority of desirable infill and building from the core out especially on the west side. Having this split would promote sprawl versus building in a compact design adjacent to existing development.

5. Recommend that a downtown set aside be established, for FY 06-07 through FY 09-10 (four years). Further, that there be a requirement that a certain number of allocations be reserved for projects in the downtown area. The Council to determine the geographic boundaries of the downtown area and determine the number of units to be reserved for the downtown area.



It was felt that this builds off of the work of the Downtown Task Force to help promote more business in the downtown.

Council Member Sellers stated inquired why it is being recommended that this section be amended to be permissive rather than mandatory.

Mr. Bischoff said that the Commission felt that over time, things change and felt that it was important for the Commission and the Council to have latitude and flexibility. He said that this would be a measure that would be in place for another 17 years. The Commission felt that requiring that the Council have an allocation over an extended period of time would be appropriate.

Council Member Tate said that there was extensive discussion about whether it should be mandatory or permissive. He said that the Committee wanted to make sure that in the first four years that the City strongly suggests that downtown set asides be in place, indicating that it was a compromise to state that the downtown set aside would only be for the first four years to kick start and try to meet the downtown goals. He indicated that a 2/3 vote was needed by the Committee to be able to forward this recommendation.

Council Member Carr indicated that the original proposal was to have a set aside for the downtown for the life of the plan. The compromise was to have downtown set aside units at the beginning to help kick start the downtown.

Council Member Sellers felt that downtown set asides need to be made mandatory. He expressed concern that there may be significant unintended consequences that have evolved from Measure E/P. Defining the core area and how it evolved ended up where the City has development in the corner and nothing in the middle. He felt that the Council has an opportunity to address this concern and that it can state that this is important and vital. There are benefits to having downtown allotments and that it would be valuable to have residential development to help businesses. However, the Council needs to point out to the voters that there are benefits to having transit oriented development. He stated that there are intrinsic benefits to having downtown residential development whether or not there is benefit to businesses. He said that when the proposed amendment returns to the Council, he will be looking to see if there is a strong statement that there is to be development in the downtown area. If after several years, no one develops in the downtown, this section can be modified. However, he did not believe that this would be the case as the market and the demand will dictate that there will be individuals willing to develop in the downtown. He expressed concern that a narrow majority of the Planning Commission was watering this section down and felt that the statement needs to be stronger.

Council Member Carr said that the proposed amendment was written such that it provides for a mandatory kick start to get development going in the downtown.

**Action:**        *It was the consensus of the City Council to support the Measure P Update Committee's recommendation and not the Planning Commission's recommendation.*

6.        Amendment would allow the City to conduct one or two year competition at the Council's



discretion.

Council Member Sellers stated that he wanted the section to provide flexibility that would allow yearly competitions for the downtown but that the rest of the City could be allowed competitions every other year.

Mr. Bischoff indicated that the proposed amendment would allow flexibility in one or two year competitions.

7. Addressed vertical mixed use projects such as retail on the first floor with residential above. It was indicated that the Committee talked about the problems for this type of development as it relates to Measure P. A problem identified is that a developer can build a commercial building today but has to wait two to three years before building the residential units above the commercial uses. This tends to discourage individuals from this type of mixed use projects. As a way to facilitate/encourage this type of development, there is a proposal to establish a set aside for mixed use projects. The Council or Commission could award allotments through a competitive process or on a first come, first served basis. The Council could establish a higher minimum score for this type of projects to ensure quality development, with the expectation that mixed use development would occur in the downtown but that there is no requirement that these be built in the downtown. Unused allocations can be carried to the next year but that the City could not carry enough so that you would have more than 30 units at any given time. The City could never award more than 15 units to a given project. The Planning Commission, by a 4-3 vote, recommends that these parameters be modified to give more discretion to the Planning Commission and City Council.

Council Member Tate said that in their recommendation for flexibility the Planning Commission did not make specific language recommendations on what the flexibility would incorporate. He stated that he did not know how to come up with more flexible language.

Mr. Bischoff indicated that some Planning Commissioners felt that the set aside number should be higher while others felt that the number should be lower. He stated that the Commission is suggesting that there be more flexibility given to changing the number of set asides on an annual basis, if needed.

Council Member Sellers was not supportive of identifying a specific number of set asides for mixed years. He said that mixed use projects are based on a different set of economic criteria in order to be viable. He was anxious that based on a lot size, a developer may be required to have 11 units in order to make the mixed unit development viable.

Mr. Bischoff noted that the recommendation suggests that up to 15 allocations could be awarded to a given project but that you could not allocate more than 10 in a given year. In order to allocate 15 units, you would have one year that went unused and carry it over to the next year. He said that a concern of the Committee was that for the larger projects you may have a major project that should have to compete. He noted that the lots in the downtown area are small. If you take a typical lot in



the downtown that is 40' x 140', you might be able to develop 5 units above a commercial use. He said that it would take an aggregation of a number of lots before you can develop above 15 units.

Council Member Sellers inquired whether a developer would be required to apply under this specific set aside for a mixed use development or can he apply as part of the downtown set asides, or can there be a combination of allocations.

Council Member Carr said that the Committee considered whether it was limiting the entire competition to set asides, noting that there are a number of set asides being proposed. The Committee reviewed set asides as being geographically the same or similar areas and that mixed use projects could be built a little further out from the downtown but along the Monterey corridor.

Mayor Kennedy expressed concern with this section with respect that the de facto that it would encourage small lot projects. He felt that the Council would want to encourage putting together small lots into a bigger project. He envisions having one nice larger project with commercial/retail on the first floor and housing on the second floor. As written, this proposed amendment would discourage large development. This is the opposite of what he would like to see.

Mr. Bischoff said that most of the downtown is divided into lots that are 40' x 140'. Unless an individual is able to aggregate them, you would not be able to take advantage of the set aside. He noted that if a mixed unit proposal is larger than 15 units, it would have to compete as a regular open market rate Measure P project.

Council Member Sellers expressed concern that there is a difference between the maximum allowed in a project and the maximum number allowed per year. He noted that these are different kinds of projects. The economics that make mixed use projects viable are different from that of a strictly residential project. He was anxious that the City would preclude mixed use projects because of the two year allocation process to develop up to a 15 unit mixed used development as it would be hard to make this project viable.

Council Member Carr indicated that there was not a scientific study behind the numbers being recommended. The Committee did not visit every lot in the downtown nor calculated the economics of a project. The Committee discussed the generalities of what a project would need to be viable and the realities of what can be built in town based on space that is available/combined. The number identified was a compromise.

Mr. Bischoff said that the Committee felt that a large mixed use project should be able to compete with other Measure P projects and that it should not benefit from any special treatment.

Council Member Sellers said that his fundamental concern is that in making a mixed use project compete against other market rate projects the City would be ignoring the unique economics that make mixed use projects viable. He did not believe that you could construct a phased in project for a mixed retail/residential use. He requested that the Committee consider increasing flexibility.

Council Member Tate indicating that the Committee felt that when a project gets to a certain size,



the economic considerations get diluted by the fact that it is large enough project to compete.

Council Member Carr said that Committee members who supported a set aside for mixed use had to fight to get the set aside to this size. Allowing more flexibility does not mean that it becomes larger, combines lots, and creates a project that individuals would like to see. He felt that 2-8 years from now a set aside for mixed use would disappear or the set asides would become smaller.

Council Member Sellers said that Council Members are the only individuals in the process who are elected to make decisions. He did not believe that the Council can abrogate its responsibility. He stated that he has respect for the entire process. He stated that he would support recommendations of the Committee. However, should the Council have significant concerns and believe that they are wrong, the Council cannot advocate supporting the recommendation of the Committee. If the Council believes that sections are wrong, the Council needs to make the change before it goes to the voters.

Mayor Kennedy expressed concern about the specific numbers that are shown. He would support the amendment without indicating specific numbers.

**Action:**        *It was the consensus of the split 4 member Council that the Committee is to relook at this amendment with the idea of trying to make it more flexible.*

8.                Provision in Measure P states that lands that are designated as open space in the General Plan shall remain that way until the year 2010. The proposed amendments would extend this time period out to 2020.

Mayor Kennedy said that he would like this amendment go out longer than this time period.

Council Member Carr indicated that it is his hope that the urban limit line would define the time period.

9.                The Committee understands that the Urban Limit Line/Greenbelt study was commencing. They wanted to ensure that anything that was done with Measure P would be consistent with this study.

No comments were offered.

10.              This section proposes to amend the expansion of the urban service area until there was less than a five year supply of vacant residential land available. This section would amend this to state that five years beyond that required to accommodate the number of units in the next competition. This amendment would ensure that there would be a five year supply of residential land available.

Mayor Kennedy inquired whether this should be amended to state 4 or 5 years, whichever is greater.



Mr. Bischoff said that he does not know of any circumstances to which it would not be greater. The proposed amendment would make sure that you are not counting the land that would be absorbed by the allocations that have already been awarded and not yet built.

11. Expansion of the Urban Service Area for desirable infill. Measure P allows for desirable infill provided that there are tracts less than 20 acres in size and that there is some benefit to the City that is gained by including land into the urban service area. The amendment being proposed would require the Council to make findings in terms of what the specific benefit would exist. In addition, there is a requirement that whenever the benefit is to be realized by the City within four years of the property being added to the urban service area, the proposed amendment would significantly tighten up desirable infill. The majority of the Committee felt that desirable infill may be abused and that it was the intent of Measure P that it was to be construed much more narrowly than it has been in the past. By adding these conditions, they would be more consistent with the intent of Measure P. The Planning Commission felt that the requirement to provide these benefits within four years was extremely onerous and would result in receiving no requests for expansion of the urban service area under the terms of desirable infill. The Commission recommends that the Council delete the condition that would require installation within four years.

Mayor Kennedy inquired whether it was the plan to bring the proposed amendments to the Council with the survey results.

Mr. Bischoff said that it would be the final recommendations of the Committee with the Planning Commission that would return to the Council on June 4, 2003. He stated that it was originally felt that the City needed to place the proposed amendments on the November 4, 2003 ballot for two reasons: 1) it was felt that this would give the City more time to meet ABAG's fair share requirements; and 2) should the ballot measure fail, it would allow the City more time to make changes and yet be able to meet ABAG's fair share housing requirement. He indicated that staff has found that the time was not as critical. If instead of taking the amendments to the voters in November 4, the Council could take the proposed amendments to the voters in March 2004 at the primary election as that would not have an effect on the City's ability to meet or not meet ABAG's fair share. He indicated that staff originally estimated that the cost of an election \$15,000-\$20,000. Staff has learned that the Registrar of Voters will be purchasing new electronic voting equipment and that this may be the only measure on the November 2003 date, resulting in a cost to the City of over \$100,000. From a cost perspective, there may be some benefit in waiting to place this on the March 2004 primary election. Also, the primary election may result in a larger voter turnout. Should the Council want to place the measure on the November 2003 ballot, the Council will consider the proposed amendments on June 4. The Council would have approximately a month to make last minute minor changes, noting that the environmental process will have commenced. Therefore, the Council would not be able to conduct significant changes. Should the Council decide to place the measure on the March 2004 ballot, the Council has additional time to consider proposed amendments.

Council Member Tate noted that there are 27 recommended amendments to Measure P and that



there may be 3-4 items that will be controversial among the Council. He felt that after a meeting of the Committee, the Committee could bring back the 3-4 items that are controversial for further discussion by the Council at an interim meeting before June 4.

Mayor Kennedy stated that he would like to review all of the amendments, including the survey results.

Council Member Sellers recommended the Council discuss whether or not the proposed amendments should be placed on the November 2003 ballot. He stated that based on what staff has indicated, he would be inclined to support placing the proposed amendments on the March 2004 ballot as it would be fiscally responsibility to do so. He felt that placing a measure on the November 2004 ballot would be too late although a case could be made that there will be a couple of Council Members up for a vote and that there would be some benefit to placing the measure along with the November 2004 ballot. However, he felt that the process would unravel should the Council wait for the November 2004 ballot.

Council Member Tate indicated that the Committee did not have a recommendation on the preferred election date. He stated that the Committee had a charge from the Council to place a measure on the November 2003 ballot, noting that the Committee has worked diligently and hard, scheduling extra meetings to meet this schedule. He felt that the Committee would appreciate more time to review the proposed amendments a few more times and the Council would wait to review the proposed amendments as well.

Mayor Kennedy and Council Members Sellers and Tate supported placing the measure on the March 2004 ballot based on the comments on the election costs, workload, meetings and the opportunity for dialogue between the Committee and the Council.

Council Member Carr stated that he was not opposed to placing a measure on the March 2004 ballot but noted that this ballot would be a crowded ballot. He felt that the City would lose a certain amount of spotlight on this measure but that it would be a greater voter turnout. He felt that having a greater voter turnout as being an advantage. He felt that the more time the Council has to study the proposed amendments the better. Should the Council suggest that the measure should be placed on the March 2004 ballot, he does not recommend that the Council direct the Committee to change or to do anything different, forwarding its recommendations to the Council by June 4, 2003 timeline.

Council Member Sellers concurred that he did not see any reason for the Committee to change their timeline. He felt that the Committee was almost finished with their charge and requested that they finish their work.

Mayor Kennedy expressed concern with the process if the Council is rushing the amendments back. He expressed concern that the Council may not have enough time to have a dialogue and provide input into the process.

Council Member Carr did not believe that the Council should change the process as the process is



almost completed. Should the Council have a stale mate on an item, the Council could ask the Committee to provide additional thoughts on the item(s). He noted that the Committee has not seen the survey results. They will review the survey results and hear the comments of the Planning Commission and the City Council. The Council will have an opportunity to make minor adjustments as a result of these three different things.

Council Member Tate said that the process could be changed at the end if there is dialogue that has to take place.

Council Member Sellers noted that Council Member Tate has suggested an opportunity to come back on an interim basis to the Council with the survey results. He supported having the Committee stay on track.

Mr. Bischoff indicated that staff did not receive Council feedback or direction about the requirements that improvements be installed within four years, noting that the Commission had some concern about this requirement. He indicated that the Committee felt that there was not much, if any, benefit to the City realized from desirable infill. The Committee felt that this should not be allowed as it was inconsistent with the spirit of Measure P.

Council Member Sellers expressed concern that the City would end up with several requests for extensions, noting that the Council currently considers several requests for extensions each year. It was his belief that the proposed amendment would guard against the bad faith efforts of someone who just wanted to annex properties into the City and then sit on the property. He stated that he tends to agree with the Planning Commission recommendation.

Council Member Tate felt that this was a political issue. He said that there are a lot of individuals who believe that they thoroughly understand the intent of Measure P and that this was an area where Measure P was trying to exclude infill that was not going to benefit the City. These individuals have seen abuses to this over the years and that they are trying to tighten this area. He said that there was one member on the Committee who was on the Committee to address this issue. This Committee member did not believe that this was something that could be left to the trust of the Council. He felt that there would be some problems if the Council does not address this issue.

Council Member Carr said that the development community on the Committee supported this recommendation.

Council Member Tate said that he is interested in getting the ballot measure passed and not receive opposition to the entire update process based on one small issue that he could live with.

12. This amendment changes some of the submittal requirements under Measure P to make it easier for everyone involved (e.g., require a narrative landscape plan as opposed to a specific plan; information on schools was not necessary because schools have been incorporated into the scoring of projects; financial information is useless because circumstances change). This amendment would have no material affect on the scoring of projects.



13. This amendment is just a wording change.
14. This amendment moves up the filing deadline and moves up the award of the allotment date to give projects a few extra months to get started.
15. This amendment deals with the number of points awarded under several categories in Measure P. Currently, safety & security receives the fewest number of points in the competition. The Committee recommends that the safety & security section receives a maximum score of 10 points. They further recommend reducing the number of points under natural & environment to 10 points from 15 points to minimize the potential of individuals seeking out environmentally sensitive properties and develop them to attain additional points. By reducing the number of points, the City would minimize the incentive to develop environmentally sensitive parcels. This amendment would also add a third category entitled “livable communities.” A project would receive points for incorporating the concepts of livable community sometimes known as Smart Growth that deals with such things as proximity to transit, pedestrian orientation, efficiency of street system, mixed use development, etc. The Committee also wanted to add an overall project excellence because they felt that sometimes the City’s criteria is so objective that there is no opportunity for the Planning Commission or the Council to look at a project and grant a couple of additional points for being a great project. This would be a category where the overall project excellence could be recognized. The Committee is recommending 10 points be assigned to this category. The Planning Commission generally supports these recommendations.
16. The required passing score for projects is 125 points. The Committee is recommending that the bar be raised. For Micro and affordable projects, the minimum passing score to be increased to 150 points and that for all other projects, the minimum passing score is to be 160 points. The Commission was supportive of this change.
17. This amendment is a clean up to take care of an existing practice that may not consistent with the wording of Measure P. A literal reading of Measure P states that the highest scoring project should get however many allocations it wants. Past practice has been to give allotments to the highest scoring projects but that often times, the Planning Commission has spread the allotments amongst a number of projects. The amendment would make a major adjustment which still requires that allotments be given to the highest scoring projects but allows the Planning Commission to distribute the allotments to create a balance and equitable distribution of allotments, helping to achieve the goals of the General Plan. The only concern that the Planning Commission had with the proposed amendment is that they wanted to make sure that this had close legal review to make sure that it would withstand any legal challenge that might be made to it.
18. The proposed amendment would provide a few extra months for projects to get started. The Planning Commission was supportive of the amendment.
19. This amendment is a minor wording change.



20. Allows for allocations to be awarded into a second or third fiscal year, consistent with past practice.
21. The City has been trying to encourage custom homes to be incorporated into projects. With the City's definition of custom homes, they cannot be built by a developer. Custom lots have to be sold to individuals and built on a lot by lot basis. The amendment would allow an additional 24 months for custom lots to be built.
22. Standardizes appeals to 15-days for anyone wishing to appeal versus the current three different appeal time frames to avoid dragging the process out and avoid the delay of projects getting started. The Planning Commission supports this amendment.
23. Rescinded Measure P allotments can be awarded to any other project that has received allocations and is capable of using the allotments within that fiscal year. This gives the City a more viable option of what to do with rescinded units. The Planning Commission requests legal review of this proposed amendment.
24. If the City is to eliminate the east/west split, the Committee recommends that something is put into place that would tend to encourage development near the central part of the City. The Committee recommends that the core be defined as the area bound by Del Monte, West Little Llagas Creek; Cosmo, Church Street, Main Avenue, railroad tracks and Wright Avenue. Points are given for projects closer to the core area under the orderly & contiguous category. The Committee was interested in trying to encourage development in the central part of the City and discourage development out on the fringes. However, they did not want to define the core as being the downtown area. A number of Committee members felt that it is the Monterey Road corridor that is the central part of the community and that the City should be encouraging development along the corridor both north and south of the downtown. The boundary identified is one that the Committee believes should be incorporated into the initiative. The Planning Commission was very mixed on this proposed amendment. Some Commissioners did not believe that the core should be defined in the initiative. Others felt that the existing definition was acceptable while others felt that the definition might be acceptable but that the Council should have the opportunity to reevaluate/change the definition of the core area every five years, if circumstances warrant it.

Council Member Sellers stated that he would support a definition that combines the recommendation as he was comfortable with defining the core area. However, he did not know if the Council should wait five years to define the core. By defining the core, the City would create a precedent and maintain the same impact. If the amendment states that the core area is defined as what is known today as the core area, he was comfortable in stating this and felt that the core area could be defined annually, if warranted. By establishing a core area, the City would create a precedent that would make incremental changes and not wholesale changes. He expressed concern that the core area definition has gotten distorted over the years.



Mr. Bischoff said that one of the concerns of the Committee is the way the core area has been defined and used in the past 10 years that includes the southern boundary of Tennant Avenue with the northern boundary being the southern boundary of the Morgan Hill Business Park that extends from Highway 101 up to the foothill. He indicated that this is a large core area and that any project within this defined core receives the same number of points. The Committee felt that there should be a smaller core area and give more credit to individuals who develop close to the downtown, transit and shopping.

Council Member Carr felt that there were several individuals who were only comfortable eliminating the east/west split as long as the core area was tightened up and that the core area be defined within the initiative and not allow it to be so flexible and changed every year, depending on what the Council felt like doing. There was also concern by others that there has to be a need for planning. When the core changes, you may win or lose a lot of points. If a developer was half way through building a project and the core changes, a developer may have a 10-year window period to build out a project versus a 3-year window period.

Mayor Kennedy inquired how the core is used under Measure P.

Mr. Bischoff responded that projects are given points according to their proximity to the core area under the orderly and contiguous category. He indicated that the scoring of the projects is contained within the ordinance and can be changed by the Council when it so chooses.

Council Member Sellers stated that the core area was so broadly defined that a project located at the edge of town would still receive points as being adjacent to the core area.

Council Member Tate felt that the proposed amendment affords the Council flexibility to increase the core area without changing the core area.

Council Member Carr indicated that the Committee talked about a lot of different shapes and scenarios, including defining the points to be awarded. The Committee recommends this amendment because it continues a lot of the emphasis on the downtown and addresses the housing opportunities along the Monterey corridor. He felt that it was important to significantly tighten up the core area and eliminate some of the sprawl that has taken place.

Mayor Kennedy supported the recommendation of the Committee. He said that it would be helpful to have the Residential Development Control System portion of the ordinance so that he can read the proposed amendments in their respective context.

City Attorney Leichter informed the Council that Chris Taylor, outside Council, is helping the City with the draft measure and has prepared a redline version of the proposed amendments.

Council Member Sellers felt that it made sense to define the core area. He noted that it was stated earlier that Measure P was a testimony to the public's distrust of the Council. He said that the irony of this is that Measure P has become so strong, in and of itself, that the Council is set in stone. He



said that Council Member have not wanted to make any changes to Measure P in the past 10 years or so. By defining the core area, he was confident that it would remain as the small area throughout the life of the measure.

**Action:** *By consensus, the City Council (Mayor Pro Tempore Chang absent) **Reviewed** the Proposed Amendments; and **Provided** the above Comments to Measure P Committee by Minute Action.*

**16. IDENTIFY DATES TO CONDUCT IDENTIFIED WORKSHOP TOPICS AND INTERVIEW VARIOUS BOARDS AND COMMISSIONS**

Council Services and Records Manager Torrez presented the staff report. She indicated that Ms. Flynn requested that the Council consider holding a follow up meeting with the County on April 16, 17 or 18.

Council Member Tate indicated that he has a conflict in meeting on the second Wednesdays of the month, noting that he will out of country May 14 through June 15.

Council Member Sellers supported conducting interviews on April 23 at 5 p.m. He noted that the League of California Cities' Sacramento trip is scheduled for May 14 and 15. He stated that he would like to take this trip. He noted that the budget session will take a while. He recommended that the budget process take place on a Friday.

City Manager Tewes informed the Council that staff is proposing to present the City Manager's recommended budget on May 14. He indicated that the Municipal Code requires that he provide the Council a recommended budget 45-days prior to the end of the fiscal year. Typically, staff likes to hand out the budget to the Council at a meeting and make a presentation. He indicated that he can meet this obligation by making the budget available to the Council and that it does not have to be presented at a meeting. He felt that the Council will want to meet to hear the budget presentation shortly after receiving it and set its decision making schedule in terms of public workshops and public hearings.

Mayor Kennedy recommended that the budget be presented Wednesday, May 28 at 6:00 p.m. with no other items being placed on the agenda.

City Manager Tewes indicated that in the past, there has been three milestones in the budget process: 1) a meeting to which staff presents the City Manager's recommended budget; 2) Council schedules a workshop, sometimes holding two workshops to discuss the operating and capital budgets; and 3) schedule a public hearing before adopting the budget. It is staff's hope that these can be accomplished by June 18, 2003.

Council Member Sellers supported holding a May 28 budget workshop. If more time is needed, the Council can schedule further meetings on June 6 or the week of June 9, holding the public hearing on June 18, 2003.



Mayor Kennedy recommended that the Council conduct a budget workshop on May 28, hold a follow up meeting on June 11 and conduct the public hearing on June 18.

Council Member Sellers supported a follow up meeting on Friday, June 13 at 9:30 a.m.

Mayor Kennedy recommended that the Council conduct a budget work session on Friday, May 16.

Council Member Carr indicated that he would be out of town on May 16 but that he is available on May 23, 8 a.m. He expressed concern that the Council is not dedicating enough time to review a difficult budget. He recommended that the Council reserve the time to adequately review the budget. He recommended that Fridays, June 6 and June 13, be made available as back up meeting dates.

City Manager Tewes agreed that this would be a difficult budget and that staff would be recommending some reductions in the budget. These will pose policy questions that the Council may wish to consider. He felt that the Council needs time to allow staff to present the budget to it; time to develop questions, concerns and comments; and request the additional analysis that it would like. Staff would need to present the analysis at a subsequent meeting. He did not believe that one, four hour workshop would be adequate to review the budget this year.

Council Member Carr said that the City Manger described the process that should be undertaken to review the budget. He would like to have whatever amount of time staff felt necessary to go through the budget and present the assumptions they used based on the comments given by the Council. The Council then needs time to take this information and digest the information, returning in a budget session with questions and comments. He felt that the Council needs two, four hour budget sessions.

City Manager Tewes indicated that the Council requested that staff schedule discussion about the operations and system design of the City's domestic water system as soon as possible. Also, a couple of Council Members felt that it would be useful to have a physical tour of city wells, reservations and pumping stations. He recommended that the Council identify when the Council would like to schedule this discussion/tour.

Council Member Sellers recommended that an informal tour be scheduled. He further recommended that workshop items be scheduled in July and August, noting that the Council has a lot of items to review and consider in the next two months, including the budget. He noted that a water system tour would take at least half a day.

Mayor Kennedy recommended that staff make a short presentation on the City's domestic water system at a Council meeting on April 23, 2003.

Council Member Sellers concurred with scheduling the City's domestic water system on the April 23 agenda and that should the meeting get late, it could be continued to April 30. He inquired whether it would be appropriate to stay overnight for the annual League of California Cities trip to Sacramento on May 14 and 15. He requested that City Clerk staff assist with scheduling this trip.



City Manager Tewes indicated that Council Member Carr suggested that following the discussion of the Parks & Recreation Commission recommendations regarding the outdoor sports complex, the Council still needs to address the allocation issue of the \$147 million at a subsequent workshop.

Mayor Kennedy inquired whether it would be appropriate to review the allocations in the context of one of the budget workshops.

Council Member Carr felt that the Redevelopment Agency allocation is a separate issue from the budget. He said that when he raised the allocation issue, he was not comfortable with the recommendation of the Parks and Recreation Commission and the direction that the Council was going. He felt that the Council needs to go into details about the general categories because he was convinced that the \$147 million cap would not cover all of the general categories. He felt that the Council/Redevelopment Agency has two options: 1) start talking about extending this cap; or 2) start talking about limiting these projects. He noted that the Council/Agency has not had this discussion yet. He felt that this is an issue that is as urgent as the Council wishes to move forward with the action it took at the last meeting to adopt the Parks and Recreation Commission recommendations (e.g., raising impact fees to cover different areas where dollars were moved out of Redevelopment Agency projects). If the Council is not driving forward with any projects other than the aquatics center, the timing is not as urgent. He felt that it would be important for all five council members to be in attendance at this discussion setting.

Council Member Tate stated his support of discussing these two options.

Mayor Kennedy requested that staff return with the discussion of scheduling the Redevelopment Agency priority session and any other items that might be time sensitive at the April 16 meeting.

**Action:** *It was the consensus of the City Council as follows (Mayor Pro Tempore Chang absent):*

- *Friday, April 18, 1:00 p.m. – meeting with County Staff/Design Team for the Courthouse project (now scheduled for Wednesday, April 23 from 4-5 p.m.)*
- *Wednesday, April 23, 5-7 p.m. – Library and Parks & Recreation Commission interviews*
- *Wednesday, April 23 as part of the RDA/City Council meeting – Staff presentation on the operations and system design of the City's domestic water system; continued to April 30 special meeting, if necessary*
- *Wednesday, April 30, 6 p.m. – Housing Strategy workshop*
- *Fiscal Year 2003-04 Budget Meeting Dates: Friday, May 23 from 8 a.m.-12 p.m.; Wednesday, June 11 @ 6 p.m.; Friday, June 13 @ 9:30 a.m. (if necessary); and Wednesday, June 18 @ 7:30 p.m. (public hearing)*

**Action :** *On a motion by Council/Agency Member Sellers and seconded by Mayor/Chairperson Kennedy, the City Council/Redevelopment Agency, on a 4-0 vote with Mayor Pro Tempore/Vice-chair Chang absent, **Extended** the meeting beyond the 11:00 p.m. meeting curfew for 30 minutes.*



**ADJOURN TO CLOSED SESSION**

Mayor/Chairperson Kennedy adjourned the meeting to closed session at 11:08 p.m.

**RECONVENE**

Mayor/Chairperson Kennedy reconvened the meeting at 11:30 p.m.

**CLOSED SESSION ANNOUNCEMENT**

City Attorney/Agency Counsel Leichter announced that there was no reportable action taken in closed session.

**FUTURE COUNCIL-INITIATED AGENDA ITEMS**

No items were identified.

**ADJOURNMENT**

There being no further business, Mayor/Chairperson Kennedy adjourned the meeting at 11:32 p.m.

**MINUTES RECORDED AND PREPARED BY**

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**IRMA TORREZ, City Clerk/Agency Secretary**





## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: April 16, 2003***

### **DEVELOPMENT AGREEMENT AMENDMENT DAA 00-09: LLAGAS-DELCO & DAA 00-10: HALE-DELCO**

#### **RECOMMENDED ACTION(S):**

- Open/close Public Hearing
- Waive the First and Second Reading of Ordinance
- Introduce Ordinance for DAA 00-09
- Waive the First and Second Reading of Ordinance
- Introduce Ordinance for DAA 00-10

**EXECUTIVE SUMMARY:** A request for approval of development agreement amendments to allow for a 2 to 12 month extension of time for 27 allocations granted to the 62 unit Llagas-Delco project and 13 allocations granted to the 13 unit Hale-Delco project.

Llagas-Delco: The 62 unit (60 allotments with 2 replacement units) Llagas-Delco project is located on a 20.7 acre site located on the south side of Llagas Rd., 350 ft. west of the Llagas Ave./Hale Ave. intersection. The Llagas-Delco project received 15 allocations for FY 2001-02 and 24 for FY 2002-03 and 21 allocations for FY2003-04. In April 2002, a 1 year extension of time was granted for the 15, 2001-02 building allotments.

Hale-Delco: The 13 unit Hale-Delco project is located on a 4.14 acre site located on the east side of Hale Ave., 1400 ft. south of the Llagas Ave./Hale Ave. intersection. The Hale-Delco project received 7 allocations for FY 2001-02 and 6 for FY 2002-03. In April 2002, a 1 year extension of time was granted for the 7, 2001-02 building allotments.

The two projects have been purchased by Llagas-Hale Investors, a.k.a. Dividend Development Co. The new owner has been diligently working on getting the two projects on track with the currently approved development schedules. Grading for the Llagas-Delco project site has begun and 12 building permits were pulled in early March. However, since acquiring the projects, the new owner has experienced a number of scheduling setbacks. Delays in the project processing have occurred due to extended environmental review, extended improvement plan processing, processing of a new Site Review approval, Water Quality Control Board and SCVWD processing; revised ADA requirements and a significant rain storm stalled the project grading. Attached to this report is a letter from the applicant which details the delays encountered by the projects.

The applicant has requested the minimum extensions he deems necessary in recognition of the previous 12 month extension and to keep the project moving forward in a timely manner. The Planning Commission reviewed the extension requests at their March 25 meeting and unanimously recommended a 2-12 month extension of the 39, FY 2002-03 allocations for the Llagas-Delco project and a 3 month extension of the 13, FY 2002-03 Hale-Delco allocations. A copy of the Commission's staff report and minutes are attached for the Council's reference.

**FISCAL IMPACT:** No budget adjustment required.

**Agenda Item # 24**

**Prepared By:**

**Senior Planner**

**Approved By:**

**Director of Community  
Development**

**Submitted By:**

**City Manager**



## **ORDINANCE NO. 1614, NEW SERIES**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1523, NEW SERIES, TO AMEND THE DEVELOPMENT AGREEMENT TO INCORPORATE A EXCEPTION TO LOSS OF BUILDING ALLOCATION FOR APPLICATION MP 00-09: LLAGAS-DELCO. (APN 764-32-005)**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAINS AS FOLLOWS:**

**SECTION 1.** The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

**SECTION 2.** The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

**SECTION 3.** The Planning Commission and City Council, pursuant to Title 18, Chapter 18.78.125 of the Municipal Code and Resolution No.00-03, adopted March 14, 2000 and City Council Resolution No. 5470 approved May 2, 2001, has awarded allotments to a certain project herein after described as follows:

<b><u>Project</u></b>	<b><u>Total Dwelling Units</u></b>
MP 99-24	15 FY 2001-02
	12 FY 2002-03
MP 00-10	12 FY 2002-03
	7 FY 2003-04
MP 01-05	14 FY 2003-04

**SECTION 4.** The City Council hereby finds that the development agreement amendment approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

**SECTION 5.** Effective Date Publication. This ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

**SECTION 6.** EXCEPTION TO LOSS OF BUILDING ALLOCATION. The project applicant has in a timely manner, submitted necessary planning applications to pursue development. Delays in the project processing have occurred due to extended environmental review, extended improvement plan processing, processing of Site Review approval, Water Quality Control Board and SCVWD processing; revised ADA requirements and a significant rain storm stalled the project grading. The delays are not a result of the developer's inaction and therefore, a one year Exception to Loss of Building Allocation, extending the time for commencement of construction for 2-12 months for 27 building allotments as shown in Section 8 of this Ordinance.

**SECTION 7.** Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.



**SECTION 8.** Exhibit B of the development agreement is amended to read as follows:

**EXHIBIT "B"**

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**DEVELOPMENT SCHEDULE**  
**MP-99-24 & MP 00-10: Llagas/Hale-Delco**  
**FY 2001-02 (15 allocations), FY 2002-03 (24 allocations) & FY 2003-04 (7 allocations)**

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|--------------|--|--|
| <b>I.</b>    | <b>SUBDIVISION AND ZONING APPLICATIONS</b><br>Applications Filed:  | (11-15-00)                             |
| <b>II.</b>   | <b>SITE REVIEW APPLICATION</b><br>Application Filed:   | ( 8-15-01)                             |
| <b>III.</b>  | <b>FINAL MAP SUBMITTAL</b><br>Map, Improvements Agreement and Bonds:   | ( 8-30-01)                             |
| <b>IV.</b>   | <b>BUILDING PERMIT SUBMITTAL-</b><br>Submit plans to Building Division for plan check:<br>FY 2001-02      12 units<br>FY 2001-02      3 units              | ( 9-30-01)<br>( 2-01-03)               |
| <b>V.</b>    | <b>PULL BUILDING PERMITS</b><br>FY 2001-02      12 units<br>FY 2001-02      3 units  | (5-01-03)<br>( 9-01-03)                |
| <b>VI.</b>   | <b>BUILDING PERMITS</b><br>Commence Construction:<br>FY 2001-02      12 units<br>FY 2001-02      3 units   | ( 8-01-03)<br>(11-01-03)               |
| <b>VII.</b>  | <b>BUILDING PERMIT SUBMITTAL</b><br>Submit plans to Building Division for plan check:<br>FY 2002-03, 6 units<br>FY 2003-04, 9 units<br>FY 2003-04, 9 units | ( 2-01-03)<br>( 9-01-03)<br>( 9-01-03) |
| <b>VIII.</b> | <b>PULL BUILDING PERMITS</b><br>FY 2002-03, 6 units<br>FY 2003-04, 9 units<br>FY 2003-04, 9 units  | ( 9-01-03)<br>(12-01-03)<br>(5-01-04)  |
| <b>XIV.</b>  | <b>BUILDING PERMITS</b><br>Commence Construction:<br>FY 2002-03, 6 units<br>FY 2003-04, 9 units<br>FY 2003-04, 9 units                                     | (11-01-03)<br>( 2-01-04)<br>( 7-01-04) |
| <b>XV.</b>   | <b>BUILDING PERMIT SUBMITTAL</b><br>Submit plans to Building Division for plan check:<br>FY 2003-04 , 7 units  | (9-01-03)                              |



**XVI. PULL BUILDING PERMITS**

FY 2003-04 , 7 units

(4-01-04)

**XVII. BUILDING PERMITS**

Commence Construction:

FY 2003-04, 7 units

(6-30-04)

Failure to commence construction by the dates listed above, shall result in the loss of building allocations. Submittal of a Final Map Application or a Building Permit, six (6) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additional, failure to meet the Final Map Submittal, Building Permit Submittal or Pull Permit deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 30 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 16<sup>th</sup> Day of April 2003, and was finally adopted at a regular meeting of said Council on the 7<sup>th</sup> Day of May 2003, and said ordinance was duly passed and adopted in accordance with law by the following vote:

**AYES: COUNCIL MEMBERS:**

**NOES: COUNCIL MEMBERS:**

**ABSENT: COUNCIL MEMBERS:**

**ABSTAIN: COUNCIL MEMBERS:**

**ATTEST:**

**APPROVED:**

---

**Irma Torrez, City Clerk**

---

**Dennis Kennedy, Mayor**

**∞ CERTIFICATE OF THE CITY CLERK ∞**

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance**



No. 1614, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 7<sup>th</sup> Day of May, 2003.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

DATE: \_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**



## **ORDINANCE NO. 1615, NEW SERIES**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1523, NEW SERIES, TO AMEND THE DEVELOPMENT AGREEMENT TO INCORPORATE A EXCEPTION TO LOSS OF BUILDING ALLOCATION FOR APPLICATION MP 00-10: HALE -DELCO (APNS 764-32-012 & 013)**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAINS AS FOLLOWS:**

**SECTION 1.** The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

**SECTION 2.** The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

**SECTION 3.** The Planning Commission and City Council, pursuant to Title 18, Chapter 18.78.125 of the Municipal Code and Resolution No.00-03, adopted March 14, 2000 and City Council Resolution No. 5470 approved May 2, 2001, has awarded allotments to a certain project herein after described as follows:

<u>Project</u>	<u>Total Dwelling Units</u>
MP 99-31: Hale-Sheng	7 for FY 2001-02
	6 for FY 2002-03

**SECTION 4.** The City Council hereby finds that the development agreement amendment approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

**SECTION 5.** Effective Date Publication. This ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

**SECTION 6. EXCEPTION TO LOSS OF BUILDING ALLOCATION.** The project applicant has in a timely manner, submitted necessary planning applications to pursue development. Delays in the project processing have occurred due to extended environmental review, extended improvement plan processing, processing of Site Review approval, Water Quality Control Board and SCVWD processing; revised ADA requirements and a significant rain storm stalled the project grading. The delays are not a result of the developer's inaction and therefore, a one year Exception to Loss of Building Allocation, extending the time for commencement of construction for 3 months for 13 building allotments as shown in Section 8 of this Ordinance.

**SECTION 7.** Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.



**SECTION 8.** Exhibit B of the development agreement is amended to read as follows:

**EXHIBIT "B"**

---

**DEVELOPMENT SCHEDULE**

**MP-99-31: Hale-Delco (Sheng)**

**FY 2001-02 (7 allotments) & FY 2002-03 (6 allotments)**

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<b>I.</b>	<b>SUBDIVISION AND ZONING APPLICATIONS</b>	
	Applications Filed:	(11-15-00)
<b>II.</b>	<b>SITE REVIEW APPLICATION</b>	( 8-15-01)
	Application Filed:	
<b>III.</b>	<b>FINAL MAP SUBMITTAL</b>	( 8-30-01)
	Map, Improvements Agreement and Bonds:	
<b>IV.</b>	<b>BUILDING PERMIT SUBMITTAL</b>	
	Submit plans to Building Division for plan check:	
	FY 2001-02, 7 units	(2-01-03)
	FY 2002-03, 6 units	(2-01-03)
<b>V.</b>	<b>PULL BUILDING PERMITS</b>	
	FY 2001-02, 7 units	( 8-01-03)
	FY 2002-03, 6 units	( 8-01-03)
<b>VI.</b>	<b>BUILDING PERMITS</b>	
	Commence Construction:	
	FY 2001-02, 7 units	( 9-30-03)
	FY 2002-03, 6 units	( 9-30-03)

Failure to obtain building permits and commence construction by the date listed above, shall result in the loss of building allocations. Submittal of a Final Map Application or a Building Permit Application, six (6) or more months beyond the filing dates listed above shall result in applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additional, failure to meet the Final Map Submittal, Building Permit Submittal, or Pull Permit deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 7 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

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processing the applications within the required time limits. Additional, failure to meet the Final Map Submittal, Building Permit Submittal, or Pull Permit deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

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The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 16<sup>th</sup> Day of April 2003, and was finally adopted at a regular meeting of said Council on the 7<sup>th</sup> Day of May 2003, and said ordinance was duly passed and adopted in accordance with law by the following vote:

**AYES: COUNCIL MEMBERS:**  
**NOES: COUNCIL MEMBERS:**  
**ABSENT: COUNCIL MEMBERS:**  
**ABSTAIN: COUNCIL MEMBERS:**

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
Irma Torrez, City Clerk

\_\_\_\_\_  
Dennis Kennedy, Mayor

**⌘ CERTIFICATE OF THE CITY CLERK ⌘**

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA,** do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1615, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 7<sup>th</sup> Day of May, 2003.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

DATE: \_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**





## **CITY COUNCIL STAFF REPORT**

**MEETING DATE: APRIL 16, 2003**

**Agenda Item # 25**

**Prepared By:**

**Manager, Recreation &  
Community Services**

**Submitted By:**

**City Manager**

### **AQUATIC COMPLEX OPERATING MODEL**

#### **RECOMMENDED ACTIONS:**

1. **Accept report from sub-committee on model for operation and maintenance based on first year of operation**
2. **Approve sub-committee's recommendation to negotiate a partnership operating model between the Aquatic Foundation, Inc. and the City for the off-season period**
3. **Direct staff to include the start-up costs for the aquatics complex in the 03-04 Fiscal Year Budget**
4. **Direct staff to begin recruitment for an aquatics manager**

#### **EXECUTIVE SUMMARY:**

Staff presented the preliminary Financial Analysis Report for the Morgan Hill Aquatic Complex as prepared by the Sports Management Group at the February 5, 2003 meeting. Based on the report findings, staff was directed to continue with the municipal operated model assumptions and reaffirmed that the aquatics complex is to proceed on schedule. The Council sub-committee (Mayor Kennedy and Council Member Carr) was asked to review with staff prospective operating models, private and non-profit, and to return with a recommendation of a proposed operating model to Council. Three responses were received in November 2002 to a request for qualifications and staff conducted preliminary discussions with them (attachment A). These prospective options were discussed in further detail in the weeks following the meeting with the Council Sub-Committee.

The proposed alternatives for operations were as follows:

- A. Lease six acres to a private company and they will build with design control (Horizon)
- B. Contract with private vendor to manage/operate the complex (AMG)
- C. Lease to local non-profit organization to operate (Aquatic Foundation, Inc)
- D. City operate

After discussing the above alternatives, the Sub-Committee is proposing a hybrid model:

- D. Hybrid Model: City operation to start and negotiate a contract for off-season operation of the complex (specifically the 50 meter pool) with Aquatic Foundation, Inc.

The Hybrid model will allow the city to continue on schedule; not deviate from the community focused design; leave future operating options open; provide for maximization of control by the City regarding schedule and operating programs; provide for start-up coverage and allow time to establish operation and revenue benchmarks.

The City operated model will require the hiring of city aquatic staff to begin work in November 2003 and the city to fund start-up operating expenses (attachment B). Staff will also begin negotiations with Aquatics Foundation, Inc. for off-season operation. After the initial year of operation, the sub-committee is recommending that the operating model be reviewed with a possible call for proposals to operate the complex with current staff monitoring any agreement implemented.

**Fiscal Impact:** The estimated subsidy would have a direct impact on the general fund for \$256,500 with a nine month operation (no bid alternates) or \$388,000 for a 12 month operation (no bid alternates). These figures are based on a city operated model (attachment C) and may be changed once the hybrid model is negotiated. The start-up costs of \$ 200,000 will be a direct impact on the general fund for FY 03-04 and will require hiring staff to begin in November 2003 to support a May 2004 opening.





## MEMORANDUM

TO: CITY COUNCIL  
FROM: COUNCIL AQUATIC SUB-COMMITTEE  
RE: AQUATIC COMPLEX OPERATOR MODEL  
DATE: APRIL 9, 2003

Staff has worked with the Council Sub-Committee to investigate potential models for operating the aquatic complex. A request for qualifications was sent out in October 2002 with three letters of intent received in November 2002. There were three operating concepts proposed (besides the city operated model):

1. Leasing land to a builder/operator
2. Management firm to coordinate start-up and day-to-day management
3. Local Non-profit organization to operate on a yearly schedule

The YMCA chose not to submit a proposal. Council asked the Council Sub-Committee to review operating models and report back to the Council at their February 5<sup>th</sup> meeting and also reaffirmed that the project stay on schedule. This is to allow the city to maximize revenue generating potential by opening in May 2004, which is the typical start of the swim season. Staff had follow-up conversations with the three organizations and discussed the results with the Sub-Committee. In reviewing the information obtained from the three operating concepts proposed the Sub-Committee considered the following criteria:

Schedule to remain with a May 04 opening.

The current design with a mix of recreational and competition elements would remain.

The months of operation would remain flexible and be analyzed based on actual cost recovery.

City to remain in control of the programming, pricing, and access for recreation and competition needs.

City goal is to maximize community public use with an eye on revenue recovery and minimizing city net cost.

An outside operator would have to demonstrate experience, financial capacity, a good plan, and a quality operation in regards to supervision and customer relations.

### Hybrid Model

Based on the following criteria, the sub-committee determined that a hybrid model may be the most efficient operating system in which to open the aquatic complex based on the current schedule. The hybrid model has the city operating the first year, including all start-up costs and aquatic staffing for the swim season that includes the recreational areas. This may reflect the nine month model or a deviation from that based on actual cost recovery. The City would negotiate with Aquatic Foundation, Inc. to operate the complex, and specifically the 50-meter pool, during the off-season for competition, team practice, and exercise swim.

As stated in the staff report, the hybrid model will allow the city to continue on schedule; not change the community focused design; leave future options open; provide for maximization of control regarding schedule and operating expenditures; provide for start-up coverage, and time to establish operation and revenue benchmarks. Also considered in the recommendation by the sub-committee was the contract with the property owner; timing to pursue any of the options and time needed to negotiate a contract;



and the current point the project is in the schedule process. The hybrid model starts with the city as operator and continues as long as the city can break even or cover expenses for a full-year of staffing and operational costs. Staff will enter into negotiations with Aquatic Foundation, Inc. to keep the complex open during the off-season as long as the joint venture is cost effective. This process will allow time to establish a benchmark for revenue and operational costs for year two.

#### Implications on Budget

The Hybrid model will require the hiring of city aquatic staff to begin work in November 2003 and the city to fund start-up operating expenses. Revenue generation from this project will only be reflected for one month (June) based on the budget fiscal year for 03/04. Based on this schedule, fiscal year 03-04 will reflect a deficit due to start-up costs for staffing and opening operating expenditures.

Projections are based on an average scope and may be better than shown (attachment A) and if the bid alternates are included (slide and extra lanes). Staff suggests a cost recovery analysis will be completed at the end of four months of operation. At that time staff and Council may review the operating costs and revenue generation of the complex and make a determination as to the year round schedule.

#### Staffing

For the city to operate the complex would require hiring the Aquatic Manager no later than November 2003. The following staff will need to be budgeted for in FY 03-04:

Aquatics Manager	Nov. 03	\$62,500 (100%)
Assistant Aquatic Manager	Jan. 04	\$27,500 (50%)
Building/Pool Technician	April 04	\$19,500 (50%)
Administrative Assistant	March 04	\$21,375 (50%)

The Aquatics Manager needs to be on staff by November to develop policies and procedures; begin staff recruitment, hiring and training; and provide input to the construction decisions to be made regarding the complex in order to support the May 04 opening.

#### Aquatic Foundation, Inc.

Council Sub-committee is also recommending that staff negotiate with Aquatic Foundation, Inc. to be a partnering operator of the aquatic complex during the off-season and open the 50 meter pool for team practice, exercise swim, and tournaments. This option may require a subsidy by the city to have the competition pool area remain operating. The Aquatic Foundation, Inc. have indicated they are interested in negotiating an agreement with the city to operate during the off-season months. These seasons are yet to be determined and may still require several months of closure if the budget warrants it.

#### Schedule

The operating model of the aquatic complex needs to be determined at this time in order to effectively plan, prepare and support the start-up, opening and first season operation of the aquatic complex. Based on Council's direction, staff will need to begin the recruitment process for the Aquatic Manager as well as enter into negotiations with the Aquatic Foundation, Inc. to support the operating schedule for the summer, fall and winter season of 2004.



## Start-up Cost Model

<b>Staff thru June 30, 04*</b>	<b>Cost</b>	<b>Note</b>
<b>Aquatics Manager</b>	\$37,000	Starting Nov. 03/ 7 months of 12
<b>Assistant Pool Manager 50%</b>	\$18,333	Starting Jan. 04/ 6 months of 9
<b>Pool Technician</b>	\$9,750	Starting April 04/ 3 months of 12
<b>Administrative Assistant</b>	\$14,250	Starting March 04/4 months of 12
<b>Benefits</b>	\$17,833	4 months
<b>PT Salaries</b>	\$54,888	2 months
<b>PT Benefits</b>	\$5444	2 months
<b>Operating Expenses</b>	\$80,888	2 months
<b>Start-up expenses</b>	\$35,000	Marketing, ticket/band system, grand opening, concession set-up
<b>Total Projected Expenses</b>	<b>\$273,386</b>	<b>First year start up</b>

\*based on SMG's report of 9 month operation with average costs

<b>Revenue</b>	<b>Thru June 04</b>
<b>Based on low projection for 9 month operation</b>	\$73,833 –1 month
<b>Total cost (cost- one month revenue)</b>	\$199,553





**Summary  
of  
NET COSTS TO OPERATE  
AQUATIC CENTER  
Under Different Scenarios**

**Without Bid Alternates**

	<b>FY 04</b>	<b>FY 05</b>	<b>FY 06</b>	<b>FY 07</b>
<b>Scenario I (9 Months)</b>	<\$199,000>	<\$256,500>	<\$205,250>	<\$154,000>
<b>Scenario II (12 Months)</b>	<\$199,000>	<\$388,000>	<\$332,000>	<\$276,000>

**With Bid Alternates**

	<b>FY 04</b>	<b>FY 05</b>	<b>FY 06</b>	<b>FY 07</b>
<b>Scenario I (9 Months)</b>	<\$199,000>	<\$187,500>	<\$129,750>	<\$ 72,000>
<b>Scenario II (12 Months)</b>	<\$199,000>	<\$319,000>	<\$256,500>	<\$194,000>





**AQUATIC CENTER**  
**Pool Operations – Scenario I**  
**9 Months (No Bid Alternates)**

	<i><b>FY 04</b></i>	<i><b>FY 05<sup>[a]</sup></b></i>	<i><b>FY 06<sup>[b]</sup></b></i>	<i><b>FY 07<sup>[c]</sup></b></i>
	<i><b>Start-up</b></i>			
<i><b>Costs</b></i>	\$ 273,000	\$ 921,000	\$ 893,500	\$ 866,000
<i><b>Revenue</b></i>	<u>74,000</u>	<u>664,500</u>	<u>688,250</u>	<u>712,000</u>
<i><b>Net Costs</b></i>	<u>&lt;\$199,000&gt;</u>	<u>&lt;\$256,500&gt;</u>	<u>&lt;\$205,250&gt;</u>	<u>&lt;\$154,000&gt;</u>

Source=Sports Management Group (SMG)

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[a] High costs/low revenue from SMG report.  
[b] Average of FY 05 and FY 07.  
[c] Average costs/average revenue from SMG report.





**AQUATIC CENTER**  
**Pool Operations – Scenario II**  
**12 Months (No Bid Alternates)**

	<i><b>FY 04</b></i>	<i><b>FY 05<sup>[a]</sup></b></i>	<i><b>FY 06<sup>[b]</sup></b></i>	<i><b>FY 07<sup>[c]</sup></b></i>
	<i><b>Start-up</b></i>			
<i><b>Costs</b></i>	\$ 273,000	\$1,057,000	\$1,025,000	\$ 993,000
<i><b>Revenue</b></i>	<u>74,000</u>	<u>669,000</u>	<u>693,000</u>	<u>717,000</u>
<i><b>Net Costs</b></i>	<u>&lt;\$199,000&gt;</u>	<u>&lt;\$388,000&gt;</u>	<u>&lt;\$332,000&gt;</u>	<u>&lt;\$276,000&gt;</u>

Source=Sports Management Group (SMG)

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[a] High costs/low revenue from SMG report.  
[b] Average of FY 05 and FY 07.  
[c] Average costs/average revenue from SMG report.





**AQUATIC CENTER**  
**Pool Operations – Scenario III**  
**9 Months (With Bid Alternates of Slide and Two Lanes)**

	<i><b>FY 04</b></i>	<i><b>FY 05<sup>[a]</sup></b></i>	<i><b>FY 06<sup>[b]</sup></b></i>	<i><b>FY 07<sup>[c]</sup></b></i>
	<i><b>Start-up</b></i>			
<i><b>Costs</b></i>	\$ 273,000	\$ 921,000	\$ 893,500	\$ 866,000
<i><b>Revenue</b></i>	<u>74,000</u>	<u>733,500</u>	<u>763,750</u>	<u>794,000</u>
<i><b>Net Costs</b></i>	<u>&lt;\$199,000&gt;</u>	<u>&lt;\$187,500&gt;</u>	<u>&lt;\$129,750&gt;</u>	<u>&lt;\$ 72,000&gt;</u>

Source=Sports Management Group (SMG)

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[a] High costs/low revenue from SMG report.  
[b] Average of FY 05 and FY 07.  
[c] Average costs/average revenue from SMG report.





**AQUATIC CENTER**  
**Pool Operations – Scenario IV**  
**12 Months (With Bid Alternates of Slide and Two Lanes)**

	<i><b>FY 04</b></i>	<i><b>FY 05<sup>[a]</sup></b></i>	<i><b>FY 06<sup>[b]</sup></b></i>	<i><b>FY 07<sup>[c]</sup></b></i>
	<i><b>Start-up</b></i>			
<i><b>Costs</b></i>	\$ 273,000	\$1,057,000	\$1,025,000	\$ 993,000
<i><b>Revenue</b></i>	<u>74,000</u>	<u>738,000</u>	<u>768,500</u>	<u>799,000</u>
<i><b>Net Costs</b></i>	<u>&lt;\$199,000&gt;</u>	<u>&lt;\$319,000&gt;</u>	<u>&lt;\$256,500&gt;</u>	<u>&lt;\$194,000&gt;</u>

Source=Sports Management Group (SMG)

---

[a] High costs/low revenue from SMG report.  
[b] Average of FY 05 and FY 07.  
[c] Average costs/average revenue from SMG report.





## **CITY COUNCIL STAFF REPORT**

**MEETING DATE:** *April 16, 2003*

### **MORGAN HILL AQUATICS COMPLEX POOL BID PACKAGE AND REQUEST FOR BID AUTHORIZATION**

**RECOMMENDED ACTION(S):** Authorize staff to proceed with the bidding for the Aquatics Complex pools and rough grading.

#### **EXECUTIVE SUMMARY:**

On January 22, 2003 the Redevelopment Agency/City Council (Council) approved the Schematic Design and authorized staff to proceed with the Design Development /Construction Document phase of the Aquatics Complex. The Council established a goal to open this facility by May 24, 2004. In order to accomplish this goal staff is requesting authority to bid the pool contract documents and rough grading before the contract documents for the entire project are 100% complete. This bid schedule will allow more construction to take place during this summer.

The pool sub-contractor will prepare his shop drawings and obtain shop drawing approval prior to the selection of the general contractor. The pool contract will then be assigned to the general contractor. The risk of bidding this phase early without knowing the entire cost of the project and assigning the pool work to a general contractor will be minimized by taking the following actions:

- 1) Pre-qualify the pool sub-contractors to assure a quality firm is selected.
- 2) Include a cancellation clause in the pool contract agreement. No construction will take place on pools until the general contract is in place. The financial exposure will be the cost of preparing the shop drawings if the project bids are over budget.

The rough grading will be bid but the agreement will include a cancellation clause. The actual grading work will not commence until the entire project is bid and that cost is known.

With your authority we will bid the pool work on May 5, 2003, receiving the bids on May 22, 2003. The General Contract will bid on June 9, 2003, receiving the bids on July 1, 2003 (see Exhibit 1).

At this time the pool contract documents are complete (see Exhibit 2). Updated cost estimates have been prepared by Nova Partners and ELS. We are still working on verifying the scope and costs. Consolidation of the updated estimate will be available at the Council meeting. However, our preliminary assessment indicates the previous estimate of pools costs could be low. The price of the proposed pool alternates (6 lane lap pool & all deep water competition pool) would also add cost to the project. Overall Council authorized budget is attached (see Exhibit 3). Staff requests authorization to bid the pools in order to get actual sub-contractor estimated costs for that specific scope of work. Staff will work with Nova partners and ELS to value engineer the entire project and identify areas of available cost reductions. If we find the pool costs are in fact higher than anticipated after the pools bid, the identified overall project cost reductions could be implemented at that time.

**FISCAL IMPACT:** No Budget adjustment requested.

**Agenda Item #26**

**Prepared By:**

**Sr. Project Manager**

**Approved By:**

**BAHS Director**

**Submitted By:**

**City Manager**





## **CITY COUNCIL STAFF REPORT**

**MEETING DATE:** *April 16, 2003*

### **CONTINUED DISCUSSION OF SCHEDULING WORKSHOPS FOR IDENTIFIED TOPICS/COMMISSION INTERVIEWS**

#### **RECOMMENDED ACTION(S):**

Select Dates to Conduct: 1) City Council Workshops; and 2) Commission Interviews

#### **EXECUTIVE SUMMARY:**

At its meeting of April 2, the Council reviewed identified topics that need to be scheduled for upcoming meetings. Due to the lateness in the hour, the Council directed that the discussion of scheduling workshop dates be continued to April 16, including the scheduling of interviews for Boards and Commissions. At the April 2 meeting, the Council identified the following meeting dates:

- Friday, April 18, 1:00 p.m. – meeting with County Staff/Design Team for the Courthouse project (now scheduled for Wednesday, April 23 from 4-5 p.m.)
- Wednesday, April 23, 5-7 p.m. – Library and Parks & Recreation Commission interviews
- Wednesday, April 23 as part of the RDA/City Council meeting – Staff presentation on the operations and system design of the City's domestic water system; continued to April 30 special meeting, if necessary.
- Wednesday, April 30, 6 p.m. – Housing Strategy workshop
- Fiscal Year 2003-04 Budget Meeting Dates: Friday, May 23 from 8 a.m.-12 p.m.; Wednesday, June 11 @ 6 p.m.; Friday, June 13 @ 9:30 a.m. (if necessary); and Wednesday, June 18 @ 7:30 p.m. (public hearing)

The Council still needs to identify when it would like to schedule the following topics adopted as 2003 Council Goals:

- Adopt a Crime Control Strategy following a workshop in the summer
- A workshop to discuss a possible program to require "1%" investment in public art
- A workshop on service level standards to be adopted by the Council
- Following the Round II decision on new library construction, schedule a workshop to review priorities, location and funding for all remaining municipal buildings.

The Council also identified the following topics that need to be scheduled for discussion:

- Economic Development Strategy
- Redevelopment Agency Allocation

Terms for the Architectural and Site Review Board (ARB) and Planning Commission members are due to expire June 1, 2003. Staff is requesting that the Council schedule interviews some time in May. At the April 2 meeting, the Council scheduled Library and Parks and Recreation Commission interviews for April 23. Staff will note that the Morgan Hill Unified School District will be taking a spring break April 18-25. Staff has been contacted by a few commission applicants indicating that they will not be available to interview on April 23. Staff is recommending that the Council conduct interviews on April 30 from 5-6 p.m. for those individuals unable to interview on April 23. Staff further recommends that the Council appoint a subcommittee to interview for the Mobile Home Rent Commission with a recommendation for appointment returning to the full Council.

Staff recommends that Council Members bring their calendars to the April 16 meeting and direct staff regarding the scheduling of workshops and interviews to fill upcoming vacancies on the ARB and Planning Commission.

**FISCAL IMPACT:** The time necessary to prepare the staff report is accommodated in the Council Services & Records Manager's Operating Budget.

**Agenda Item #27**

**Prepared By:**

**Council Services &  
Records Manager/  
City Clerk**

**Submitted By:**

**City Manager**



# April

*Sun*

*Mon*

*Tue*

*Wed*

*Thu*

*Fri*

*Sat*

**1**

**2**

**3**

**4**

**5**

6:00 p.m.  
Closed  
Session  
7:00 p.m.  
City Council

7:00 ARB

1:30 Senior

**6**

**7**

**8**

**9**

**10**

**11**

**12**

8:00 a.m.  
City-School  
Liaison

6:15 BTAC

5:00 YAC

7:00 Planning

**13**

**14**

**15**

**16**

**17**

**18**

**19**

5:00 p.m.  
Fin & Audit  
6:00 Closed  
Session  
7:00 p.m. City  
Council

7:00 ARB

7:30 Library

7:30 PRC

**20**

**21**

**22**

**23**

**24**

**25**

**26**

4:00 p.m.  
Courthouse  
5:00 p.m.  
Commission  
Interviews  
7:00 p.m. RDA

7:00 Planning

**27**

**28**

**29**

**30**

6:00 Special  
Council Mtg.  
Housing  
Strategy

**2003**



# May

Sun

Mon

Tue

Wed

Thu

Fri

Sat

1

2

3

7:00 ARB

4

5

6

7

8

9

10

1:30 Senior

6:00 p.m.  
Closed  
Session  
7:00 p.m.  
City Council

6:15 BTAC

5:00 YAC

11

12

13

14

15

16

17

7:30 Library

7:00 Planning

Budget  
Distributed to  
Council

League of CA  
Trip to  
Sacramento

8:00 a.m.  
City School  
Liaison

7:00 ARB

18

19

20

21

22

23

24

7:00 Mobile  
Home Rent

7:30 PRC

6:00 p.m.  
Closed  
Session  
7:00 p.m.  
city Council

8 a.m.-12 p.m.  
Budget  
Workshop

25

26

27

28

29

30

31

HOLIDAY

MEMORIAL  
DAY

7:00 Planning

6:00 p.m.  
Fin & Audit  
7:00 p.m.  
RDA

2003



# June

*Sun*

*Mon*

*Tue*

*Wed*

*Thu*

*Fri*

*Sat*

**1**

**2**

**3**

**4**

**5**

**6**

**7**

6:00 p.m.  
Closed  
Session  
7:00 p.m.  
City Council

7:00 ARB

1:30 Senior

5:00 YAC

**8**

**9**

**10**

**11**

**12**

**13**

**14**

6:00 p.m.  
Special Council  
Meeting –  
Budget  
Workshop

8:00 a.m. City-  
School Liaison  
9:30 a.m.  
Budget  
Workshop, if  
necessary

7:30 Library

7:00 Planning

**15**

**16**

**17**

**18**

**19**

**20**

**21**

6:00 p.m.  
Closed Session  
7:00 p.m.  
City Council,  
includes PH on  
Budget

6:15 BTAC

7:00 ARB

7:30 Library

**22**

**23**

**24**

**25**

**26**

**27**

**28**

6:00 p.m. Fin &  
Audit  
7:00 p.m. RDA

7:00 planning

**29**

**30**

**2003**



# July

Sun

Mon

Tue

Wed

Thu

Fri

Sat

1

1:30 Senior

2

6:00 p.m.  
Closed  
Session  
7:00 p.m.  
City Council

3

7:00 ARB

4

HOLIDAY

FOURTH  
OF JULY

5

6

7

5:30 YAC

8

7:00 Planning

9

10

11

8:00 a.m.  
City-School  
Liaison

12

13

14

7:30 Library

15

7:30 PRC

16

6:00 p.m.  
Closed  
Session  
7:00 p.m.  
City Council

17

6:15 BTAC

7:00 ARB

18

19

20

21

22

7:00 Planning

23

6:00 p.m.  
Fin & Audit  
7:00 p.m.  
RDA

24

25

26

27

28

29

30

31

2003



**August**

*Sun Mon Tue Wed Thu Fri Sat*

**1 2**

**3 4 5 6 7 8 9**

1:30 Senior  
City Council Meeting  
Cancelled  
7:00 ARB

5:00 YAC

**10 11 12 13 14 15 16**

7:30 Library  
7:00 Planning

**17 18 19 20 21 22 23**

6:00 p.m.  
Closed Session  
7:00 p.m.  
City Council  
6:15 BTAC  
7:00 ARB

7:30 PRC

**24 25 26 27 28 29 30**

7:00 Mobile  
Rent Commission  
7:00 Planning

6:00 p.m.  
Fin & Audit  
7:00 p.m.  
RDA

**31**

**2003**



# September

Sun

Mon

Tue

Wed

Thu

Fri

Sat

**1**

Holiday  
Labor Day

**2**

1:30 Senior

**3**

6:00 p.m.

Closed  
Session

7:00 p.m.

City Council

**4**

7:00 ARB

**5**

**6**

**7**

League of  
CA Cities  
Conference

**8**

League of  
CA Cities  
Conference

**9**

League of  
CA Cities  
Conference

**10**

League of  
CA Cities  
Conference

**11**

**12**

**13**

7:30 Library

7:00 PC

**14**

**15**

**16**

**17**

**18**

**19**

**20**

6:00 p.m.

Closed  
Session

7:00 p.m.

City Council

6:15 BTAC

7:00 ARB

7:30 PRC

**21**

**22**

**23**

**24**

**25**

**26**

**27**

6:00 p.m.

Fin & Audit

7:00 p.m.

RDA

7:00 PC

**28**

**29**

**30**

**2003**





# **CITY COUNCIL & REDEVELOPMENT**

## **AGENCY STAFF REPORT**

**MEETING DATE: APRIL 16, 2003**

**Agenda Item #28**

**Prepared By:**

**Finance Director**

**Submitted By:**

**City Manager**

### **INVESTMENT POLICY UPDATE**

#### **RECOMMENDED ACTIONS:**

- 1) Review and adopt the updated Investment Policy for the City.
- 2) Review and adopt the updated Investment Policy for the Redevelopment Agency

**EXECUTIVE SUMMARY:** Section 53646(a)(2) of the Government Code requires that "...the treasurer or chief fiscal officer shall annually render to the legislative body of that local agency and any oversight committee... a statement of investment policy, which the legislative body of the local agency shall consider at a public meeting. Any change in the policy shall also be considered by the legislative body of the local agency at a public meeting..." In compliance with this requirement, staff is bringing the attached proposed separate investment policies for the City (Exhibit A) and Redevelopment Agency (Exhibit B) for your review. These policies were last updated and adopted by the City Council and Redevelopment Agency Board of Directors in June of 2002.

The Finance and Audit Committee, which includes the City Treasurer, has reviewed the current policy and has endorsed several changes designed to safely maximize investment earnings and to promote local investing. To understand how investing in local financial institutions benefits the community, the Committee invited and talked with representatives from two local banks. In these meetings, the Committee determined that investing locally allows the City and Agency to provide an economic boost to the community, since local financial institutions would have more money to lend to local borrowers, which would assist both the business community and the residents of Morgan Hill. Under the current Investment Policy, on Page 10, "Time deposits will only be made with qualified banks and savings and loans having branch office locations within Santa Clara County..." These investments must be fully collateralized.

The Committee recommends that a fourth goal be added to the Investment Policy that would "...invest public funds to...Encourage local economic benefits to City of Morgan Hill residents and businesses by investing in local financial institutions, subject to local control." The Committee also recommends that the \$1 million maximum investment limit and the one year maximum term for time deposits specified under the current Investment Policy be increased to \$2 million and 2 years. While most of the City's idle funds would continue to be invested in federal agency securities and with the State of California Local Agency Investment Fund (LAIF), these changes would help the community by allowing for a greater opportunity to prudently invest in local financial institutions and would allow the City to simultaneously achieve a good return on investments. The proposed changes are described more fully on Attachment A and are incorporated in the attached proposed Investment Policy.

Since State law also requires that this Investment Policy be submitted to the California Debt and Investment Advisory Committee, staff will submit the new policy to the State following adoption.

**FISCAL IMPACT:** The attached proposed Investment Policy continues to provide that the first priority in investing City and Redevelopment Agency funds is the safety of those funds, the second priority is the liquidity of those funds, and the third priority is the yield on those investments. Safety is paramount and is reflected in the types of investments allowed under the policy.



## **ATTACHMENT A**

### **PROPOSED CHANGES TO CITY AND RDA INVESTMENT POLICIES**

Investment Policy P. 3: “**INTRODUCTION**” first paragraph currently reads:  
“...The primary goals of this policy are to invest public funds to:

- 1 Meet the daily cash flow needs of the City.
- 2 Comply with all laws of the State of California regarding the investment of public funds.
- 3 Achieve a reasonable rate of return while minimizing the potential for capital losses arising from market changes or issuer default.”

In order to expand the goals of the Investment Policy to include the consideration of local economic benefits to the community, it would be appropriate to add the following additional goal:

**“4 Encourage local economic benefits to City of Morgan Hill residents and businesses by investing in local financial institutions, subject to legal control.”**

Investment Policy P. 9: “Policy Statement on Collateralized Time Deposits” paragraph 6 currently reads:

“The City will not place a fund deposit for more than \$1,000,000, or 10% of the assets of the institution, whichever is less.” Since the proposed investment is \$2 million, “\$1,000,000 would be replaced with **\$2,000,000**.”

Investment Policy P. 9: “Policy Statement on Collateralized Time Deposits” paragraph 8 reads:

“All time certificates must have a maturity period not exceeding one year from the date of deposit with quarterly payments of interest based upon the stated interest rate.” Since the proposed investment term is 2 years, “one year” would be replaced with **“two years”**.

Investment Policy P. 17: table entitled: “Authorized Investments Ranked by Authority and Degree of Risk” includes, under time deposits, “Max \$1 million per Institution...” Since the proposed investment is \$2 million, “\$1 million would be replaced with **\$2 million**.”



**EXHIBIT A**

CITY OF MORGAN HILL

**STATEMENT OF INVESTMENT POLICY**

APRIL 16, 2003



**CITY OF MORGAN HILL**  
**Statement of Investment Policy**

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CITY OF MORGAN HILL  
**Statement of Investment Policy**

INTRODUCTION

*The investment policy and practices of the City of Morgan Hill are based upon state law, city ordinances, prudent money management and the "prudent person" standards. The primary goals of this policy are to invest public funds to:*

1. *Meet the daily cash flow needs of the City.*
2. *Comply with all laws of the State of California regarding the investment of public funds.*
3. *Achieve a reasonable rate of return while minimizing the potential for capital losses arising from market changes or issuer default.*
4. *Encourage local economic benefits to the City of Morgan Hill residents and businesses by investing in local financial institutions, subject to legal control.*

**SCOPE**

The investment policy applies to all funds under the control of the City Council of the City of Morgan Hill, including but not limited to the general revenues of the City, enterprise fund revenues and proceeds of bond sales, debt service revenues and trust funds in the custody of the City. These funds are accounted for in the comprehensive annual financial reports of the City of Morgan Hill.

**INVESTMENT OBJECTIVES**

**A. Safety of Principal**

Safety of principal is the City's foremost objective of the investment program. Investments shall be undertaken in a manner that seeks to ensure that capital losses resulting from institution default, broker-dealer default, or the erosion of market value are avoided. The City shall seek to preserve principal by mitigating the two types of risk: credit risk and market risk.

1. Credit risk, defined as the risk of loss due to failure of the issuer of a security, shall be mitigated by investing in only the highest quality securities (see authorized investments) and by diversifying the investment portfolio so that the failure of any one issuer would not unduly harm the City cash flow.



2. Market risk, defined as the risk of market value fluctuations due to overall changes in the general level of interest rates, shall be mitigated by structuring the portfolio so that securities mature at the same time that major cash outflows occur, this eliminating the need to sell securities prior to maturity; and by prohibiting the taking of short positions, that is, selling securities that the City does not own. It is explicitly recognized, however, that in a diversified portfolio, occasional measured losses may occur, and must be considered within the context of the overall investment return.

**B. Liquidity**

Liquidity is the second most important objective of the investment program. The investment portfolio shall remain sufficiently liquid to enable the City to meet all operating requirements. At all times, at least 50% of the total portfolio shall be invested for periods of three years or less; at least 30% of the total portfolio shall be invested for two years or less; at least 20% of the total portfolio shall be invested for one year or less. At no time will a security in the portfolio mature in more than five years except bond reserve funds, bond escrow funds and any funds approved by the City Council to be appropriate for a longer period.

**C. Yield**

The City portfolio shall be invested to attain a market average rate of return through economic cycles, as long as it does not diminish the objectives of Safety and Liquidity. The market rate of return is defined as the average return on the one-year U.S. Treasury Bill. Whenever possible and in a manner consistent with the objectives of safety of principal and liquidity, a yield higher than the market rate of return shall be sought.

**AUTHORITY TO INVEST FUNDS**

The City Council has appointed the City Treasurer responsible for undertaking investment transactions on behalf of the City. Unless specifically designated by the City Council, the only officials authorized to undertake investment transactions on behalf of the City are the City Treasurer, Deputy City Treasurer and City Manager. The City Manager shall review all investment purchases before they occur. The City Treasurer and City Manager will observe, review and react to the changing conditions that affect the investment portfolio. They will meet on a regular basis to discuss current market conditions, future trends and how each of these affects the investment portfolio and the City. The City Treasurer and City Manager shall establish a system of controls to ensure compliance with the City's investment policy.

**INTERNAL CONTROL**

The City Treasurer is responsible for ensuring compliance with the City investment policies as well as establishing investment related internal controls designed to prevent losses due to fraud, employee error, misrepresenting by third parties, or unanticipated changes in financial markets.



## **ETHICS AND CONFLICTS OF INTEREST**

Officer and employees involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions. Employees and investment officers shall disclose any material financial interests in financial institutions that conduct business within this jurisdiction, and they shall further disclose any larger personal financial/investment positions that could be related to the performance of the City's portfolio. Employees and officers shall subordinate their personal investment transactions to those of the City, particularly with regard to the timing of purchases and sales, and shall avoid transactions that might impair public confidence in the City's ability to govern effectively.

## **EVALUATION OF INVESTMENTS**

The actions of City investment officers in the performance of their duties as managers of public funds shall be evaluated using the following "prudent person" standard applied in the context of managing the overall portfolio:

*Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the professional management of their business affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.*

City investment officers acting in accordance with written policies and the "prudent person" standard and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided that substantial deviations from expectations are reported by the Treasurer to the City Manager within three days of discovery. Mutually agreeable remedial action will be taken by the Treasurer and City Manager and reported to the City Council at their next regularly scheduled meeting.

## **AUTHORIZED FINANCIAL DEALERS AND INSTITUTIONS**

The City shall transact business only with banks and savings and loans, and investment securities dealers which/who comply with Schedule III (Policy Criteria for Selecting Broker/Dealers) attached. The City Treasurer will maintain a list of financial institutions authorized to provide investment services. He will also maintain a list of approved security brokers/dealers selected by credit worthiness who are authorized to provide investment services to the City. The dealers must be primary dealers regularly reporting to the Federal Reserve Bank. Exceptions to the primary dealer rule may be made with the approval of the City Council, provided they are consistent with California Government Code Section 53601.5.

All primary financial institutions and broker/dealers who desire to become qualified bidders for investment transactions must supply an audited financial statement, and U4 Form for the broker,



completed broker/dealer questionnaire (see Schedule III) and certification of having read the City's investment policy. All secondary financial institutions and broker/dealers who desire to become qualified bidders for investment transactions must supply an audited financial statement, proof of National Association of Securities Dealers certification, trading resolution, proof of state registration, completed broker/dealer questionnaire (see Schedule 111), U4 Form for the broker and certification of having read the City's investment policy. The City Treasurer shall determine if they are adequately capitalized, make markets on securities appropriate to the City's needs and are recommended by managers of portfolios similar to the City. The City Treasurer shall submit his findings and recommendations to the City Council. As part of their annual review of the Investment Policy, the Council will determine which broker/dealers will be authorized to trade with the City.

An annual review of the financial condition and registration of qualified bidders will be conducted. A current audited financial statement is required to be on file for each financial institution and broker/dealer in which the City invests.

The City shall at least annually send a copy of the current investment policy to all financial institutions and broker/dealers approved to do business with the City. Confirmation of receipt of this policy shall be considered evidence that the dealer has read and understands the City's investment policy and will recommend and execute only transactions suitable for and in compliance with the City's investment policy.

### **AUTHORIZED INVESTMENTS**

The City is authorized by California Government Code Section 53600, et. seq. to invest in specific types of securities. The City has further limited the types of securities in which we may invest. Any security not listed, is not a valid investment for the City. The concise list of approved securities is as follows:

- A. United States Treasury Bills, Bonds, and Notes, or those for which the full faith and credit of the United States are pledged for payment of principal and interest. There is no limitation as to the percentage of the portfolio which can be invested in this category.
- B. Obligations issued by United States Government Agencies such as, but not limited to, the Government National Mortgage Association (GNMA), the Federal Farm Credit Bank System (FFCB), the Federal Home Loan Bank (FHLB), the Federal National Mortgage Association (FNMA), the Federal Home Mortgage Corporation (FHLMC), the Student Loan Marketing Association (SLMA), and the Tennessee Valley Authority (TVA). Although there is no percentage limitation of the dollar amount that can be invested in these issuers, the "prudent person" rule shall apply for any single agency name.
- C. The Local Agency Investment Fund (LAIF), established by the State Treasurer for the benefit of local agencies and identified under Government Code Section 16429.1 is authorized up to the maximum amount permitted by State Law.



- D. The City may place funds in inactive deposits with Banks and Savings and Loans with a branch within California that have a rating of at least "A-1" from the Financial Directory or an equivalent rating from another generally recognized authority on ratings, and have an Equity to Total Assets ratio of at least 4%. No more than 10% of the City portfolio, exclusive of investments in Government agency issues and the State Treasurer's Local Agency Investment Fund, shall be placed with any one financial institution. All deposits shall be secured in accordance with Sections 53651 and 53652 of the California Government Code and comply with Schedule I (Policy Statement of Collateralized Time Deposits) attached. If deposits are not collateralized, the maximum placed at any one institution will be \$100,000. The maximum amount of collateralized inactive deposits placed at any one institution shall not constitute more than 5% of the total assets of the institution or \$5,000,000, whichever is less, and shall not exceed the total shareholders' equity of the issuing institution.
- E. The City may invest in the Dreyfuss Treasury Cash Management Fund as an overnight sweep account in conjunction with contracting with South Valley National Bank for banking services.

### **INVESTMENT POOLS**

The Local Agency Investment Fund (LAIF) is authorized under provisions in Section 16429.1 of the California Government Code. The City's participation in the pool was previously approved by the City Council. The City will investigate all local government investment pools (LGP) prior to investing and periodically thereafter while the City is invested in the pool.

### **SAFEKEEPING OF SECURITIES**

To protect against potential losses by the collapse of individual securities dealers, all securities owned by the City shall be held in safekeeping by a third party bank trust department acting as agent for the City under the terms of a custody agreement executed by the bank and the City. All securities will be received and delivered using standard delivery-versus-payment (DVP) procedures. The third party bank trustee agreement must comply with Section 53608 of the California Government Code. No outside broker/dealer or advisor may have access to City funds, accounts or investments, and any transfer of funds to or through an outside broker/dealer must be approved by the City Treasurer.

### **DIVERSIFICATION**

The City will diversify its investments by security type and investment. With the exception of bond reserve funds, bond escrow funds, and any other funds approved by the City Council, at all times at least 50% of the total portfolio shall mature in three years or less; at least 30% of the total portfolio shall mature in two years or less; at least 20% of the portfolio shall mature in one year or less.



## **MAXIMUM MATURITIES**

The City will attempt to match its investments with anticipated cash flow requirements. Unless matched to a specific cash flow, as approved by the City Council, the City will not directly invest in securities maturing more than five years from the date of purchase. Bond reserve funds, bond escrow funds, and any other funds approved by the City Council may be invested in securities exceeding five years if the maturities of such investments are made to coincide as nearly as possible with the expected use of the funds.

## **BOND PROCEEDS**

The City will direct the investment of proceeds on bonds issued as instructed in the bond indenture. Securities authorized by the bond indenture that are not authorized by the City's investment policy will only be used if they are specifically approved by the City Council. Unless otherwise approved by the City Council, all securities will be held in third-party safekeeping with the bond trustee, and all delivery-versus-payment rules will apply. Fees will be collected annually to compensate for administration costs.

## **REPORTING REQUIREMENTS**

The City Treasurer shall render a report of investment activity to the City Council within 30 days following the end of the quarter. The report will include the type of investment, issuer, date of maturity, and par and dollar amount invested, on all securities, investments and monies held by the City. The report shall state market value and the source of the valuation, and state that the portfolio is in compliance with the policy or the manner in which it is not in compliance. The report will also include a statement denoting the ability to meet the City's expected expenditure requirements for the next six months or provide an explanation as to why sufficient money is not available. The report date will be the actual month-end date unless the last day of the month falls on a weekend or legal holiday. If the last day of the month is a weekend or legal holiday, the date of month-end report will be the last business day prior to the end of the month.

## **INVESTMENT POLICY ADOPTION**

The City Treasurer shall submit an annual Statement of Investment Policy to the City Council for their approval. This statement shall be presented before June 30 of each year.

## **INVESTMENT POLICY REVIEW**

The City's independent Certified Public Accountant shall annually review and make recommendations regarding the City investment policies to the extent considered necessary as required by generally accepted auditing standards as they relate to the annual financial audit which includes cash and investments.



## CITY OF MORGAN HILL

### ***POLICY STATEMENT ON COLLATERALIZED TIME DEPOSITS*** SCHEDULE I

Before the Treasury can place a time deposit with a local bank or savings and loan, the following, criteria must be met:

1. The bank must provide us with an executed copy of the "Contract for Deposit for Moneys" as specified in Section 53649 of the California Government Code.
2. The interest rate on the Time Certificate of Deposit must be competitive with rates offered by other banks and savings and loans and must exceed the interest rate for treasury bills for a similar maturity period.
3. For investments less than \$ 100,000, FDIC insurance will be sufficient without requiring any collateral to be pledged with the Federal Reserve to secure the public fund deposit.
4. For investments exceeding \$100,000, there may be a waiver of collateral for the first \$100,000 deposited, and all of the funds placed on deposit must be collateralized by 105% of U.S. Treasury or Federal Agency securities, or by 150% of mortgages having maturities less than five years in accordance with Section 53652 of the California Government Code. The City must receive confirmation that these securities have been pledged in repayment of the time deposit. The securities pledged must be maintained at a current market value 10% greater than the dollar amount of the deposit.
5. The City must be given a current audited financial statement for the financial year just ended as well as the most recent quarterly statement of financial condition. The financial reports must both include a "statement of financial condition" as well as an "income statement" depicting current and prior year operations.
6. The City will not place a fund deposit for more than \$2,000,000, or 10% of the assets of the institution, whichever is less.
7. The City must receive a certificate of deposit which specifically expresses the terms governing the transaction, (i.e., the period of time, name of depositor, interest rate, etc.).
8. All time certificates must have a maturity period not exceeding two years from the date of deposit with quarterly payments of interest based upon the stated interest rate.
9. The City must also receive a letter from the comptroller and/or treasurer of the bank at the time the deposit is made, that there is no known pending financial disclosure or public announcement of an adverse financial event involving the bank or savings and loan, nor is there any knowledge that a conflict of interest situation exists with any City official, officer or employee at the time the bank is receiving this deposit. The City has a fiduciary responsibility to make prudent investment of public funds, and to assure our investment practices are absent of any financial inducement or conflict in interest whatsoever.



10. Time deposits will only be made with qualified banks and savings and loans having branch office locations within Santa Clara County. However, time deposits with a bank or savings and loan must be centralized at one designated office location rather than making separate deposits with each branch office.



CITY OF MORGAN HILL

*POLICY CRITERIA FOR SELECTING BROKER/DEALERS*  
SCHEDULE II

1. All primary financial institutions and broker/dealers who desire to become qualified bidders for investment transactions must supply an audited financial statement, and U4 Form for the broker, completed broker/dealer questionnaire (made a part of this Schedule) and certification of having read the City's investment policy. All secondary financial institutions and broker/dealers who desire to become qualified bidders for investment transactions must supply an audited financial statement, proof of National Association of Securities Dealers certification, trading resolution, proof of state registration, completed broker/dealer questionnaire (made a part of this Schedule), U4 Form for the broker and certification of having read the City's investment policy.
2. The net capital position of the firm shall be in excess of \$ 100 million.
3. The City Treasurer's intent is to enter into a long-term relationship. Therefore, the integrity of the firm and the personnel assigned to our account is of primary importance.
4. The firm must state in writing its willingness to be bound by the City's written Investment Policy Guidelines.
5. The firm must provide an active secondary market for the securities it sells.
6. The firm must specify the types of securities it specializes in and will be made available for our account.
7. It is important that the firm provide related services that will enhance the account relationship which could include:
  - a) An active secondary market for its securities.
  - b) Internal credit research analysis on commercial paper, banker's acceptances and other securities it offers for sale.
  - c) Be willing to trade securities on our portfolio.
  - d) Be capable of providing market analysis, economic projections, newsletters.
  - e) Provide market education on new investment products, security spread relationships, graphs, etc.
8. The firm must be willing to provide us annual financial statements.
9. If requested, the firm must be willing to provide us a list of local government clients or other references, particularly those client relationships established within the State of California.



10. The City is prohibited from the establishment of a broker/dealer account for the purpose of holding the City's securities. All securities must be subject to delivery at the City's custodial bank.
11. Without exception, all transactions are to be conducted on a "delivery vs. payment" basis.
12. The broker/dealer shall be headquartered or have a branch office in California- Except for the above, the City will not conduct security transactions with any firm located out of state.
13. The broker/dealer must have been in operation for more than 5 years, and must have net capital in excess of \$100 million.
14. No business relationship shall be established with firms engaged in the sale of "exotic" products. Exotic means "unusually high yields," no ready secondary market, "high price volatility" on the security.
15. The firm must be registered with the State of California's regulatory agency.
16. No broker/dealer or security firm shall be selected who has made a political contribution to the local treasurer or any member of the City Council or the Redevelopment Agency governing board or to any candidate for these offices.



## Broker/Dealer Questionnaire

**Name of Firm:**

**Address:**

**Telephone No.:**

**Primary representative**

**Manager**

**Name:**

**Title:**

**Telephone No:**

1. Are you a recognized primary dealer in Government securities?  
( ) Yes ( ) No
2. If so, how long has your firm been a primary dealer?  
\_\_\_\_\_ years.
3. Are you a retail or institutional brokers?
4. What was your firm's total volume in U. S. Government and agency securities trading last year?  
Firm-wide \$ \_\_\_\_\_  
Your office \$ \_\_\_\_\_
5. Which instruments are offered regularly by your trading desk?  
( ) T-bills ( ) BA's (domestic)  
( ) T-notes and bonds ( ) BA's (foreign)  
( ) Agencies (specify) ( ) Commercial Paper  
FFCB, FHLB, FNMA ( ) Bank C. D.'s



FHLMC, SLMA, TVA

( ) S & L C. D.'s

WORLD BANK

( ) Repurchase Agreements

( ) Medium Term Corporate Notes

( ) Reverse Repurchase  
Agreements

( ) Mutual Funds (eligible for public investment)

6. Identify all personnel who will be trading with or quoting securities to the City.

Name

Title

Phone

7. Please identify your most directly comparable City/Local Agency clients in our geographical area.

Entity

Contact Person

Phone

Client  
Since

8. Is there anything in your background in the government securities business that makes you stand out above the rest? Why should the City of Morgan Hill deal with you?

9. Have any of your public sector clients ever sustained a loss on a securities transaction arising from a misunderstanding or misrepresentation of the risk characteristics of a particular instrument? If so, please explain.

10. Has any public sector client ever claimed in writing that your firm was responsible for investment losses? Explain.

11. Has your firm consistently complied with the Federal Reserve Bank's capital adequacy guidelines? Include certified documentation of your capital adequacy as measured by Federal Reserve standards.

12. Please provide certified financial statements and other statements regarding your firm's capitalization.

13. Please include samples of research reports that your firm regularly supplies to public



sector clients.

14. Are you a Broker instead of a Dealer (i.e. you DO NOT own positions of securities)?
15. What reports, transactions, confirmations and paper trail would the City receive?
16. What training information would you provide to our employees and investment officers?
17. How many and what percentage of your transactions failed last month? Last year?
18. What portfolio information do you require from clients?

***--CERTIFICATION--***

I hereby certify that I have personally read the City of Morgan Hill's Investment Policy and the California Government Codes pertaining to the investments of the City of Morgan Hill, and have implemented reasonable procedures and a system of controls designed to preclude imprudent investment activities arising out of transactions conducted by our firm on behalf of the City of Morgan Hill, considering the City's investment objectives, strategies and risk constraints. We pledge to exercise due diligence in informing the City Treasury staff of all foreseeable risks associated with financial transactions conducted with our firm. I attest to the accuracy of our responses to the above questionnaire.

NOTE: Completion of this questionnaire is only part of the City of Morgan Hill's Certification process and DOES NOT guarantee that the applicant will be approved to do business with the City.

SIGNED  
(Account Representative)

SIGNED  
(Countersigned by Company President or person in charge of government securities operations.)

DATED



CITY OF MORGAN HILL

***FIRMS AUTHORIZED TO CONDUCT INVESTMENT TRANSACTIONS***  
SCHEDULE III

The City is authorized to conduct investment security transactions with the following investment firms and broker/dealers, many of which are designated by the Federal Reserve Bank as primary government dealers. Security transactions with firms, other than those appearing on this list, are prohibited.

A. Firms designated by the Federal Reserve Bank as Primary Government Dealers:

None

B. Other authorized firms:

Union Bank of California  
Fahnestock & Co., Inc.



**CITY OF MORGAN HILL**  
**Authorized Investments Ranked by Authority and Degree of Risk**  
**April 16, 2003**

<b>AUTHORIZED INVESTMENTS</b>	<b>DIVERSIFICATION</b>	<b>PURCHASE RESTRICTIONS</b>
<b>U.S. TREASURY BILLS &amp; NOTES</b>	<b>No Limit</b>	<b>No Limit</b>
<b>DREYFUSS TREASURY CASH MANAGEMENT FUND</b>	<b>No Limit</b>	<b>No Limit</b>
<b>U.S. GOVERNMENT AGENCIES</b>	<b>No Limit</b>	<b>No Limit</b>
<b>LOCAL AGENCY INVESTMENT FUND</b>	<b>No Limit</b>	<b>Max. Set by Gov't Code- currently \$40 m per acct.</b>
<b>TIME DEPOSITS</b>	<b>Max 5% of portfolio (excluding gov't agency and LAIF)</b>	<b>Max \$2 million per institution Collateral = 105% to 150%</b>
<b>REPURCHASE AGREEMENTS</b>	<b>Not Authorized</b>	<b>Not Authorized</b>
<b>MONEY MARKET MUTUAL FUNDS</b>	<b>Not Authorized</b>	<b>Not Authorized</b>
<b>BANKERS' ACCEPTANCES</b>	<b>Not Authorized</b>	<b>Not Authorized</b>
<b>COMMERCIAL PAPER</b>	<b>Not Authorized</b>	<b>Not Authorized</b>
<b>MEDIUM-TERM CORPORATE NOTES</b>	<b>Not Authorized</b>	<b>Not Authorized</b>
<b>NEGOTIABLE CD'S</b>	<b>Not Authorized</b>	<b>Not Authorized</b>
<b>REVERSE REPURCHASE AGREEMENTS</b>	<b>Not Authorized</b>	<b>Not Authorized</b>
<b>ASSET BACKED SECURITIES</b>	<b>Not Authorized</b>	<b>Not Authorized</b>
<b>STATE &amp; LOCAL INDEBTEDNESS</b>	<b>Not Authorized</b>	<b>Not Authorized</b>



## GLOSSARY

**AGENCIES:** Federal agency securities.

**ASKED:** The price at which securities are offered. (The price at which a firm will sell a security to an investor.)

**BANKERS' ACCEPTANCE (BA):** A draft or bill or exchange accepted by a bank or trust company. The accepting institution guarantees payment of the bill, as well as the issuer.

**BASIS POINT:** One one-hundredth of a percent (i.e., 0.01%).

**BID:** The price offered by a buyer of securities. (When you are selling securities, you ask for a bid.)

**BROKER:** A broker brings buyers and sellers together for a commission. He does not take a position.

**CERTIFICATE OF DEPOSIT (CD):** A time deposit with a specific maturity evidenced by a certificate. Large denomination CD's are typically negotiable.

**COLLATERAL:** Securities, evidence of deposit or other property which a borrower pledges to secure repayment of a loan. Also refers to securities pledged by a bank to secure deposits of public monies.

**COUPON:** a) The annual rate of interest that a bond's issuer promises to pay the bondholder on the bond's face value. b) A certificate attached to a bond evidencing interest due on a payment date.

**DEALER:** A dealer, as opposed to a broker, acts as a principal in all transactions, buying and selling for his own account.

**DEBENTURE:** A bond secured only by the general credit of the issuer.

**DELIVERY VERSUS PAYMENT:** There

are two methods of delivery of securities: delivery versus payment and delivery versus receipt. Delivery versus payment is delivery of securities with an exchange of money for the securities. Delivery versus receipt is delivery of securities with an exchange of a signed receipt for the securities.

**DISCOUNT:** The difference between the cost price of a security and its maturity when quoted at lower than face value. A security selling below original offering price shortly after sale also is considered to be at a discount.

**DISCOUNT SECURITIES:** Non-interest bearing money market instruments that are issued at a discount and redeemed at maturity for full face value (e.g., U.S. Treasury Bills).

**DIVERSIFICATION:** Dividing investment funds among a variety of securities offering independent returns.

**FEDERAL CREDIT AGENCIES:** Agencies of the Federal government set up to supply credit to various classes of institutions (e.g. S&L's, Small business firms, students, farmers, farm cooperatives, and exporters).

**FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC):** A Federal agency that insures bank deposits, currently up to \$100,000 per deposit.

**FEDERAL FUNDS RATE:** The rate of interest at which Fed funds are traded. This rate is currently pegged by the Federal Reserve through open-market operations.

**FEDERAL HOME LOAN BANKS (FHLB):** The institutions that regulate and lend to savings and loan associations. The Federal Home Loan Banks play a role analogous to that played by the Federal Reserve Banks vis-a-vis member commercial banks.

**FEDERAL NATIONAL MORTGAGE**



**ASSOCIATION (FNMA):** FNMA, like GNMA was chartered under the Federal National Mortgage Association Act in 1938. FNMA is a Federal corporation working under the auspices of the Department of Housing and Urban Development (HUD). It is the largest single provider of residential mortgage funds in the United States. Fannie Mae, as the corporation is called, is a private stockholder-owned corporation. The corporation's purchases include a variety of adjustable mortgages and second loans, in addition to fixed-rate mortgages. FNMA's securities are also highly liquid and are widely accepted. FNMA assumes and guarantees that all security holders will receive timely payment of principal and interest.

**FEDERAL OPEN MARKET COMMITTEE (FOMC):** Consists of seven members of the Federal Reserve Board and five of the twelve Federal Reserve Bank Presidents. The President of the New York Federal Reserve Bank is a permanent member, while the other presidents serve on a rotating basis. The Committee periodically meets to set Federal Reserve guidelines regarding purchases and sales of Government Securities in the open market as a means of influencing the volume of bank credit and money.

**FEDERAL RESERVE SYSTEM:** The central bank of the United States created by Congress and consisting of a seven-member Board of Governors in Washington, D.C.; 12 regional banks and about 5,700 commercial banks are member of the system.

**GOVERNMENT NATIONAL MORTGAGE ASSOCIATION (GNMA or Ginnie Mae):** Securities influencing the volume of bank credit guaranteed by GNMA and issued by mortgage bankers, commercial banks, savings and loan associations, and other institutions. Security holder is protected by full faith and credit of the U.S. Government. Ginnie Mae securities are backed by the FHA, VA or FMHM mortgages. The term "pass-throughs" is often used to describe Ginnie Maes.

**LIQUIDITY:** A liquid asset is one that can be converted easily and rapidly into cash

without a substantial loss of value. In the money market, a security is said to be liquid if the spread between bid and asked prices is narrow and reasonable size can be done at those quotes.

**LOCAL GOVERNMENT INVESTMENT POOL (LGIP):** The aggregate of all funds from political subdivisions that are placed in the custody of the State Treasurer for investment and reinvestment.

**MARKET VALUE:** The price at which a security is trading and could presumably be purchased or sold.

**MARKET REPURCHASE AGREEMENT:** A written contract covering all future transactions between the parties to repurchase reverse repurchase agreements that establish each party's rights in the transactions. A master agreement will often specify, among other things, the right of the buyer-lender to liquidate the underlying securities in the event of default by the seller-borrower.

**MATURITY:** The date upon which the principal or stated value of an investment becomes due and payable.

**OFFER:** The price asked by a seller of securities. (When you are buying securities, you ask for an offer.) See "Asked" and "Bid".

**OPEN MARKET OPERATIONS:** Purchases and sales of government and certain other securities in the open market by the New York Federal Reserve Bank as directed by the FOMC in order to influence the volume of money and credit in the economy. Purchases inject reserves into the bank system and stimulate growth of money and credit. Sales have the opposite effect. Open market operations are the Federal Reserve's most important and most flexible monetary policy tool.

**PORTFOLIO:** Collection of securities held by an investor.

**PRIMARY DEALER:** A group of



government securities dealers who submit daily reports of market activity and positions and monthly financial statements to the Federal Reserve Bank of New York and are subject to its informal oversight. Primary dealers include Securities and Exchange Commission (SEC)-registered securities broker/dealers, banks and a few unregulated firms.

**PRUDENT PERSON RULE:** An investment standard. In some states, the law requires that a fiduciary, such as a trustee, may invest money only in a list of securities selected by the custody state--the so-called "legal list". In other states, the trustee may invest in a security if it is one which would be bought by a prudent person of discretion and intelligence who is seeking a reasonable income and preservation of capital.

**RATE OF RETURN:** The yield obtainable on a security based on its purchase price or its current market price. This may be the amortized yield to maturity; on a bond, the current income return.

**REPURCHASE AGREEMENT (RP or REPO):** a holder of securities sells these securities to an investor with an agreement to purchase them at a fixed date. The security "buyer" in effect lends the "seller" money for the period of the agreement, and the terms of the agreement are structured to compensate him for this. Dealers use RP extensively to finance their positions. Exception: When the Fed is said to be doing RP, it is lending money, that is, increasing bank reserves.

**SAFEKEEPING:** A service to customers rendered by banks for a fee whereby securities and valuables of all types and descriptions are held in the bank's vaults for protection.

**SECONDARY MARKET:** A market made for the purchase and sale of outstanding issues following the initial distribution.

**SECURITIES & EXCHANGE COMMISSION:** Agency created by Congress to protect investors in securities transactions by administering securities legislation.

**SEC RULE 15C3-1:** See "Uniform Net Capital Rule".

**TREASURY BILLS:** A non-interest bearing discount security issued by the U.S. Treasury to finance the national debt. Most bills are issued to mature in three month, six months or one year.

**TREASURY BOND:** Long-term U.S. Treasury securities having initial maturities of more than 10 years.

**TREASURY NOTES:** Intermediate-term coupon bearing U.S. Treasury securities having initial maturities of from one year to ten years.

**UNIFORM NET CAPITAL RULE:** Securities and Exchange Commission requirement that member firms as well as nonmember broker/dealers in securities maintain a maximum ratio of indebtedness to liquid capital of 15 to 1; also called *net capital rule* and *net capital ratio*. Indebtedness covers all money owed to a firm, including margin loans and commitments to purchase securities, on reason new public issues are spread among members of underwriting syndicates. Liquid capital includes cash and assets easily converted into cash.

**YIELD:** The rate of annual income return on an investment, expressed as a percentage. (a) **INCOME YIELD** is obtained by dividing the current dollar income by the current market price for the security. (b) **NET YIELD or YIELD TO MATURITY** is the current income yield minus any premium above par or plus any discount from par in purchase price, with the adjustment spread over the period from the date of purchase to the date of maturity of the bond.







**EXHIBIT B**

MORGAN HILL REDEVELOPMENT AGENCY

STATEMENT OF INVESTMENT POLICY

APRIL 16, 2003



**MORGAN HILL REDEVELOPMENT AGENCY**  
**Statement of Investment Policy**

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## MORGAN HILL REDEVELOPMENT AGENCY

### Statement of Investment Policy

#### INTRODUCTION

*The investment policy and practices of the Morgan Hill Redevelopment Agency are based upon state law, city ordinances, prudent money management and the "prudent person" standards. The primary goals of this policy are to invest public funds to:*

1. *Meet the daily cash flow needs of the Redevelopment Agency.*
2. *Comply with all laws of the State of California regarding the investment of public funds.*
3. *Achieve a reasonable rate of return while minimizing the potential for capital losses arising from market changes or issuer default.*
4. *Encourage local economic benefits to the City of Morgan Hill residents and businesses by investing in local financial institutions, subject to legal control.*

#### SCOPE

The investment policy applies to all funds under the control of the Morgan Hill Redevelopment Agency, including but not limited to the general revenues of the Agency and proceeds of bond sales. These funds are accounted for in the comprehensive annual financial reports of the Morgan Hill Redevelopment Agency.

#### INVESTMENT OBJECTIVES

##### A. Safety of Principal

Safety of principal is the Agency's foremost objective of the investment program. Investments shall be undertaken in a manner that seeks to ensure that capital losses resulting from institution default, broker-dealer default, or the erosion of market value are avoided. The Agency shall seek to preserve principal by mitigating the two types of risk: credit risk and market risk.

1. Credit risk, defined as the risk of loss due to failure of the issuer of a security, shall be mitigated by investing in only the highest quality securities (see authorized investments) and by diversifying the investment portfolio so that the failure of any one issuer would not unduly harm the Agency's cash flow.



2. Market risk, defined as the risk of market value fluctuations due to overall changes in the general level of interest rates, shall be mitigated by structuring the portfolio so that securities mature at the same time that major cash outflows occur, this eliminating the need to sell securities prior to maturity; and by prohibiting the taking of short positions, that is, selling securities that the Agency does not own. It is explicitly recognized, however, that in a diversified portfolio, occasional measured losses may occur, and must be considered within the context of the overall investment return.

**B. Liquidity**

Liquidity is the second most important objective of the investment program. The investment portfolio shall remain sufficiently liquid to enable the Agency to meet all operating requirements. At all times, at least 50% of the total portfolio shall be invested for periods of three years or less; at least 30% of the total portfolio shall be invested for two years or less; at least 20% of the total portfolio shall be invested for one year or less. At no time will a security in the portfolio mature in more than five years except bond reserve funds, bond escrow funds and any funds approved by the Agency Board to be appropriate for a longer period.

**C. Yield**

The Agency portfolio shall be invested to attain a market average rate of return through economic cycles, as long as it does not diminish the objectives of Safety and Liquidity. The market rate of return is defined as the average return on the one-year U.S. Treasury Bill. Whenever possible and in a manner consistent with the objectives of safety of principal and liquidity, a yield higher than the market rate of return shall be sought.

**AUTHORITY TO INVEST FUNDS**

The Redevelopment Agency Board have appointed the Director of Finance responsible for undertaking investment transactions on behalf of the Agency. Unless specifically designated by the Agency Board, the only officials authorized to undertake investment transactions on behalf of the Agency are the Director of Finance, Deputy Treasurer and City Manager. The City Manager shall review all investment purchases before they occur. The Director of Finance and City Manager will observe, review and react to the changing conditions that affect the investment portfolio. They will meet on a regular basis to discuss current market conditions, future trends and how each of these affects the investment portfolio and the Agency. The Director of Finance and City Manager shall establish a system of controls to ensure compliance with the Agency's investment policy.

**INTERNAL CONTROL**

The Director of Finance is responsible for ensuring compliance with the Agency investment policies as well as establishing investment related internal controls designed to prevent losses due to fraud, employee error, misrepresenting by third parties, or unanticipated changes in financial markets.



## **ETHICS AND CONFLICTS OF INTEREST**

Officer and employees involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions. Employees and investment officers shall disclose any material financial interests in financial institutions that conduct business within this jurisdiction, and they shall further disclose any larger personal financial/investment positions that could be related to the performance of the Agency's portfolio. Employees and officers shall subordinate their personal investment transactions to those of the Agency, particularly with regard to the timing of purchases and sales, and shall avoid transactions that might impair public confidence in the Agency's ability to govern effectively.

## **EVALUATION OF INVESTMENTS**

The actions of Agency investment officers in the performance of their duties as managers of public funds shall be evaluated using the following "prudent person" standard applied in the context of managing the overall portfolio:

*Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the professional management of their business affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.*

Agency investment officers acting in accordance with written policies and the "prudent person" standard and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided that substantial deviations from expectations are reported by the Director of Finance to the City Manager within three days of discovery. Mutually agreeable remedial action will be taken by the Director of Finance and City Manager and reported to the Agency Board at their next regularly scheduled meeting.

## **AUTHORIZED FINANCIAL DEALERS AND INSTITUTIONS**

The Agency shall transact business only with banks and savings and loans, and investment securities dealers which/who comply with Schedule III (Policy Criteria for Selecting Broker/Dealers) attached. The Director of Finance will maintain a list of financial institutions authorized to provide investment services. He will also maintain a list of approved security brokers/dealers selected by credit worthiness who are authorized to provide investment services to the Agency. The dealers must be primary dealers regularly reporting to the Federal Reserve Bank. Exceptions to the primary dealer rule may be made with the approval of the Agency Board, provided they are consistent with California Government Code Section 53601.5.

All primary financial institutions and broker/dealers who desire to become qualified bidders for investment transactions must supply an audited financial statement, and U4 Form for the broker, completed broker/dealer questionnaire (see Schedule III) and certification of having read the Agency's investment policy. All secondary financial institutions and broker/dealers who desire to



become qualified bidders for investment transactions must supply an audited financial statement, proof of National Association of Securities Dealers certification, trading resolution, proof of state registration, completed broker/dealer questionnaire (see Schedule 111), U4 Form for the broker and certification of having read the Agency's investment policy. The Director of Finance shall determine if they are adequately capitalized, make markets on securities appropriate to the Agency's needs and are recommended by managers of portfolios similar to the Agency. The Director of Finance shall submit his findings and recommendations to the Agency Board. As part of their annual review of the Investment Policy, the Board will determine which broker/dealers will be authorized to trade with the Agency.

An annual review of the financial condition and registration of qualified bidders will be conducted. A current audited financial statement is required to be on file for each financial institution and broker/dealer in which the Agency invests.

The Agency shall at least annually send a copy of the current investment policy to all financial institutions and broker/dealers approved to do business with the Agency. Confirmation of receipt of this policy shall be considered evidence that the dealer has read and understands the Agency's investment policy and will recommend and execute only transactions suitable for and in compliance with the Agency's investment policy.

### **AUTHORIZED INVESTMENTS**

The Agency is authorized by California Government Code Section 53600, et. seq. to invest in specific types of securities. The Agency has further limited the types of securities in which we may invest. Any security not listed, is not a valid investment for the Agency. The concise list of approved securities is as follows:

- A. United States Treasury Bills, Bonds, and Notes, or those for which the full faith and credit of the United States are pledged for payment of principal and interest. There is no limitation as to the percentage of the portfolio which can be invested in this category.
- B. Obligations issued by United States Government Agencies such as, but not limited to, the Government National Mortgage Association (GNMA), the Federal Farm Credit Bank System (FFCB), the Federal Home Loan Bank (FHLB), the Federal National Mortgage Association (FNMA), the Federal Home Mortgage Corporation (FHLMC), the Student Loan Marketing Association (SLMA), and the Tennessee Valley Authority (TVA). Although there is no percentage limitation of the dollar amount that can be invested in these issuers, the "prudent person" rule shall apply for any single agency name.
- C. The Local Agency Investment Fund (LAIF), established by the State Director of Finance for the benefit of local agencies and identified under Government Code Section 16429.1 is authorized up to the maximum amount permitted by State Law.



- D. The Agency may place funds in inactive deposits with Banks and Savings and Loans with a branch within California that have a rating of at least "A-1" from the Financial Directory or an equivalent rating from another generally recognized authority on ratings, and have an Equity to Total Assets ratio of at least 4%. No more than 10% of the Agency portfolio, exclusive of investments in Government agency issues and the State Director of Finance's Local Agency Investment Fund, shall be placed with any one financial institution. All deposits shall be secured in accordance with Sections 53651 and 53652 of the California Government Code and comply with Schedule I (Policy Statement of Collateralized Time Deposits) attached. If deposits are not collateralized, the maximum placed at any one institution will be \$100,000. The maximum amount of collateralized inactive deposits placed at any one institution shall not constitute more than 5% of the total assets of the institution or \$5,000,000, whichever is less, and shall not exceed the total shareholders' equity of the issuing institution.
- E. The City may invest in the Dreyfuss Treasury Cash Management Fund as an overnight sweep account in conjunction with contracting with South Valley National Bank for banking services.

### **INVESTMENT POOLS**

The Local Agency Investment Fund (LAIF) is authorized under provisions in Section 16429.1 of the California Government Code. The Agency's participation in the pool was previously approved by the Redevelopment Agency Board. The Agency will investigate all local government investment pools (LGP) prior to investing and periodically thereafter while the Agency is invested in the pool.

### **SAFEKEEPING OF SECURITIES**

To protect against potential losses by the collapse of individual securities dealers, all securities owned by the Agency shall be held in safekeeping by a third party bank trust department acting as agent for the Agency under the terms of a custody agreement executed by the bank and the Agency. All securities will be received and delivered using standard delivery-versus-payment (DVP) procedures. The third party bank trustee agreement must comply with Section 53608 of the California Government Code. No outside broker/dealer or advisor may have access to Agency funds, accounts or investments, and any transfer of funds to or through an outside broker/dealer must be approved by the Director of Finance.

### **DIVERSIFICATION**

The Agency will diversify its investments by security type and investment. With the exception of bond reserve funds, bond escrow funds, and any other funds approved by the Agency Board, at all times at least 50% of the total portfolio shall mature in three years or less; at least 30% of the total portfolio shall mature in two years or less; at least 20% of the portfolio shall mature in one year or less.

### **MAXIMUM MATURITIES**



The Agency will attempt to match its investments with anticipated cash flow requirements. Unless matched to a specific cash flow, as approved by the Agency Board, the Agency will not directly invest in securities maturing more than five years from the date of purchase. Bond reserve funds, bond escrow funds, and any other funds approved by the Agency Board may be invested in securities exceeding five years if the maturities of such investments are made to coincide as nearly as possible with the expected use of the funds.

### **BOND PROCEEDS**

The Agency will direct the investment of proceeds on bonds issued as instructed in the bond indenture. Securities authorized by the bond indenture that are not authorized by the Agency's investment policy will only be used if they are specifically approved by the Agency Board. Unless otherwise approved by the Agency Board, all securities will be held in third-party safekeeping with the bond trustee, and all delivery-versus-payment rules will apply. Fees will be collected annually to compensate for administration costs.

### **REPORTING REQUIREMENTS**

The Director of Finance shall render a report of investment activity to the Agency Board within 30 days following the end of the quarter. The report will include the type of investment, issuer, date of maturity, and par and dollar amount invested, on all securities, investments and monies held by the Agency. The report shall state market value and the source of the valuation, and state that the portfolio is in compliance with the policy or the manner in which it is not in compliance. The report will also include a statement denoting the ability to meet the Agency's expected expenditure requirements for the next six months or provide an explanation as to why sufficient money is not available. The report date will be the actual month-end date unless the last day of the month falls on a weekend or legal holiday. If the last day of the month is a weekend or legal holiday, the date of month-end report will be the last business day prior to the end of the month.

### **INVESTMENT POLICY ADOPTION**

The Director of Finance shall submit an annual Statement of Investment Policy to the Redevelopment Agency Board for their approval. This statement shall be presented before June 30 of each year.

### **INVESTMENT POLICY REVIEW**

The Agency's independent Certified Public Accountant shall annually review and make recommendations regarding the Agency investment policies to the extent considered necessary as required by generally accepted auditing standards as they relate to the annual financial audit which includes cash and investments.



## MORGAN HILL REDEVELOPMENT AGENCY

### ***POLICY STATEMENT ON COLLATERALIZED TIME DEPOSITS*** SCHEDULE I

Before the Treasury can place a time deposit with a local bank or savings and loan, the following, criteria must be met:

1. The bank must provide us with an executed copy of the "Contract for Deposit for Moneys" as specified in Section 53649 of the California Government Code.
2. The interest rate on the Time Certificate of Deposit must be competitive with rates offered by other banks and savings and loans residing in Santa Clara County and must exceed the interest rate for treasury bills for a similar maturity period.
3. For investments less than \$ 100,000, FDIC insurance will be sufficient without requiring any collateral to be pledged with the Federal Reserve to secure the public fund deposit.
4. For investments exceeding \$100,000, there may be a waiver of collateral for the first \$100,000 deposited, and all of the funds placed on deposit must be collateralized by 105% of U.S. Treasury or Federal Agency securities, or by 150% of mortgages having maturities less than five years in accordance with Section 53652 of the California Government Code. The Agency must receive confirmation that these securities have been pledged in repayment of the time deposit. The securities pledged must be maintained at a current market value 10% greater than the dollar amount of the deposit.
5. The Agency must be given a current audited financial statement for the financial year just ended as well as the most recent quarterly statement of financial condition. The financial reports must both include a "statement of financial condition" as well as an "income statement" depicting current and prior year operations.
6. The Agency will not place a fund deposit for more than \$2,000,000, or 10% of the assets of the institution, whichever is less.
7. The Agency must receive a certificate of deposit which specifically expresses the terms governing the transaction, (i.e., the period of time, name of depositor, interest rate, etc.).
8. All time certificates must have a maturity period not exceeding two years from the date of deposit with quarterly payments of interest based upon the stated interest rate.
9. The Agency must also receive a letter from the comptroller and/or Director of Finance of the bank at the time the deposit is made, that there is no known pending financial disclosure or public announcement of an adverse financial event involving the bank or savings and loan, nor is there any knowledge that a conflict of interest situation exists with any Agency official, officer or employee at the time the bank is receiving this deposit. The Agency has a fiduciary responsibility to make prudent investment of public funds, and to assure our investment practices are absent of any financial inducement or conflict in interest whatsoever.



10. Time deposits will only be made with qualified banks and savings and loans having branch office locations within Santa Clara County. However, time deposits with a bank or savings and loan must be centralized at one designated office location rather than making separate deposits with each branch office.



## MORGAN HILL REDEVELOPMENT AGENCY

### *POLICY CRITERIA FOR SELECTING BROKER/DEALERS* SCHEDULE II

1. All primary financial institutions and broker/dealers who desire to become qualified bidders for investment transactions must supply an audited financial statement, and U4 Form for the broker, completed broker/dealer questionnaire (made a part of this Schedule) and certification of having read the Agency 's investment policy. All secondary financial institutions and broker/dealers who desire to become qualified bidders for investment transactions must supply an audited financial statement, proof of National Association of Securities Dealers certification, trading resolution, proof of state registration, completed broker/dealer questionnaire (made a part of this Schedule), U4 Form for the broker and certification of having read the Agency 's investment policy.
2. The net capital position of the firm shall be in excess of \$ 100 million.
3. The Director of Finance's intent is to enter into a long-term relationship. Therefore, the integrity of the firm and the personnel assigned to our account is of primary importance.
4. The firm must state in writing its willingness to be bound by the Agency 's written Investment Policy Guidelines.
5. The firm must provide an active secondary market for the securities it sells.
6. The firm must specify the types of securities it specializes in and will be made available for our account.
7. It is important that the firm provide related services that will enhance the account relationship which could include:
  - a) An active secondary market for its securities.
  - b) Internal credit research analysis on commercial paper, banker's acceptances and other securities it offers for sale.
  - c) Be willing to trade securities on our portfolio.
  - d) Be capable of providing market analysis, economic projections, newsletters.
  - e) Provide market education on new investment products, security spread relationships, graphs, etc.
8. The firm must be willing to provide us annual financial statements.
9. If requested, the firm must be willing to provide us a list of local government clients or other references, particularly those client relationships established within the State of California.
10. The Agency is prohibited from the establishment of a broker/dealer account for the purpose of holding the Agency 's securities. All securities must be subject to delivery at the Agency's



custodial bank.

11. Without exception, all transactions are to be conducted on a "delivery vs. payment" basis.
12. The broker/dealer shall be headquartered or have a branch office in California- Except for the above, the Agency will not conduct security transactions with any firm located out of state.
13. The broker/dealer must have been in operation for more than 5 years, and must have net capital in excess of \$100 million.
14. No business relationship shall be established with firms engaging in the sale of "exotic" products. Exotic means "unusually high yields," no ready secondary market, "high price volatility" on the security.
15. The firm must be registered with the State of California's regulatory agency.
16. No broker/dealer or security firm shall be selected who has made a political contribution to the local Director of Finance or any member of the Redevelopment Agency governing board or to any candidate for these offices.



## Broker/Dealer Questionnaire

**Name of Firm:**

**Address:**

**Telephone No.:**

**Primary representative**

**Manager**

**Name:**

**Title:**

**Telephone No:**

1. Are you a recognized primary dealer in Government securities?  
( ) Yes ( ) No
2. If so, how long has your firm been a primary dealer?  
\_\_\_\_\_ years.
3. Are you a retail or institutional brokers?
4. What was your firm's total volume in U. S. Government and agency securities trading last year?  
Firm-wide \$ \_\_\_\_\_  
Your office \$ \_\_\_\_\_
5. Which instruments are offered regularly by your trading desk?  
( ) T-bills ( ) BA's (domestic)  
( ) T-notes and bonds ( ) BA's (foreign)  
( ) Agencies (specify) ( ) Commercial Paper  
FFCB, FHLB, FNMA ( ) Bank C. D.'s



FHLMC, SLMA, TVA

( ) S & L C. D.'s

WORLD BANK

( ) Repurchase Agreements

( ) Medium Term Corporate Notes

( ) Reverse Repurchase  
Agreements

( ) Mutual Funds (eligible for public investment)

6. Identify all personnel who will be trading with or quoting securities to the City.

Name

Title

Phone

7. Please identify your most directly comparable City/Local Agency clients in our geographical area.

Entity

Contact Person

Phone

Client  
Since

8. Is there anything in your background in the government securities business that makes you stand out above the rest? Why should the City of Morgan Hill deal with you?

9. Have any of your public sector clients ever sustained a loss on a securities transaction arising from a misunderstanding or misrepresentation of the risk characteristics of a particular instrument? If so, please explain.

10. Has any public sector client ever claimed in writing that your firm was responsible for investment losses? Explain.

11. Has your firm consistently complied with the Federal Reserve Bank's capital adequacy guidelines? Include certified documentation of your capital adequacy as measured by Federal Reserve standards.

12. Please provide certified financial statements and other statements regarding your firm's capitalization.

13. Please include samples of research reports that your firm regularly supplies to public sector clients.



14. Are you a Broker instead of a Dealer (i.e. you DO NOT own positions of securities)?
15. What reports, transactions, confirmations and paper trail would the City receive?
16. What training information would you provide to our employees and investment officers?
17. How many and what percentage of your transactions failed last month? Last year?
18. What portfolio information do you require from clients?

**--CERTIFICATION--**

I hereby certify that I have personally read the Morgan Hill Redevelopment Agency's Investment Policy and the California Government Codes pertaining to the investments of the Morgan Hill Redevelopment Agency, and have implemented reasonable procedures and a system of controls designed to preclude imprudent investment activities arising out of transactions conducted by our firm on behalf of the Morgan Hill Redevelopment Agency, considering the Agency's investment objectives, strategies and risk constraints. We pledge to exercise due diligence in informing the Agency Treasury staff of all foreseeable risks associated with financial transactions conducted by our firm. I attest to the accuracy of our responses to the above questionnaire.

NOTE: Completion of this questionnaire is only part of the Morgan Hill Redevelopment Agency's Certification process and DOES NOT guarantee that the applicant will be approved to do business with the Agency.

SIGNED  
(Account Representative)

SIGNED  
(Countersigned by Company President or person in charge of government securities operations.)

DATED



MORGAN HILL REDEVELOPMENT AGENCY

***FIRMS AUTHORIZED TO CONDUCT INVESTMENT TRANSACTIONS***  
SCHEDULE III

The Agency is authorized to conduct investment security transactions with the following investment firms and broker/dealers, many of which are designated by the Federal Reserve Bank as primary government dealers. Security transactions with firms, other than those appearing on this list, are prohibited.

A. Firms designated by the Federal Reserve Bank as Primary Government Dealers:

None

B. Other authorized firms:

Union Bank of California  
Fahnestock & Co., Inc.



**MORGAN HILL REDEVELOPMENT AGENCY**  
**Authorized Investments Ranked by Authority and Degree of Risk**  
**April 16, 2003**

<b>AUTHORIZED INVESTMENTS</b>	<b>DIVERSIFICATION</b>	<b>PURCHASE RESTRICTIONS</b>
<b>U.S. TREASURY BILLS &amp; NOTES</b>	<b>No Limit</b>	<b>No Limit</b>
<b>DREYFUSS TREASURY CASH MANAGEMENT FUND</b>	<b>No Limit</b>	<b>No Limit</b>
<b>U.S. GOVERNMENT AGENCIES</b>	<b>No Limit</b>	<b>No Limit</b>
<b>LOCAL AGENCY INVESTMENT FUND</b>	<b>No Limit</b>	<b>Max. Set by Gov't Code- currently \$40 m per acct.</b>
<b>TIME DEPOSITS</b>	<b>Max 5% of portfolio (excluding gov't agency and LAIF)</b>	<b>Max \$2 million per institution Collateral = 105% to 150%</b>
<b>REPURCHASE AGREEMENTS</b>	<b>Not Authorized</b>	<b>Not Authorized</b>
<b>MONEY MARKET MUTUAL FUNDS</b>	<b>Not Authorized</b>	<b>Not Authorized</b>
<b>BANKERS' ACCEPTANCES</b>	<b>Not Authorized</b>	<b>Not Authorized</b>
<b>COMMERCIAL PAPER</b>	<b>Not Authorized</b>	<b>Not Authorized</b>
<b>MEDIUM-TERM CORPORATE NOTES</b>	<b>Not Authorized</b>	<b>Not Authorized</b>
<b>NEGOTIABLE CD'S</b>	<b>Not Authorized</b>	<b>Not Authorized</b>
<b>REVERSE REPURCHASE AGREEMENTS</b>	<b>Not Authorized</b>	<b>Not Authorized</b>
<b>ASSET BACKED SECURITIES</b>	<b>Not Authorized</b>	<b>Not Authorized</b>
<b>STATE &amp; LOCAL INDEBTEDNESS</b>	<b>Not Authorized</b>	<b>Not Authorized</b>



## GLOSSARY

**AGENCIES:** Federal agency securities.

**ASKED:** The price at which securities are offered. (The price at which a firm will sell a security to an investor.)

**BANKERS' ACCEPTANCE (BA):** A draft or bill or exchange accepted by a bank or trust company. The accepting institution guarantees payment of the bill, as well as the issuer.

**BASIS POINT:** One one-hundredth of a percent (i.e., 0.01%).

**BID:** The price offered by a buyer of securities. (When you are selling securities, you ask for a bid.)

**BROKER:** A broker brings buyers and sellers together for a commission. He does not take a position.

**CERTIFICATE OF DEPOSIT (CD):** A time deposit with a specific maturity evidenced by a certificate. Large denomination CD's are typically negotiable.

**COLLATERAL:** Securities, evidence of deposit or other property which a borrower pledges to secure repayment of a loan. Also refers to securities pledged by a bank to secure deposits of public monies.

**COUPON:** a) The annual rate of interest that a bond's issuer promises to pay the bondholder on the bond's face value. b) A certificate attached to a bond evidencing interest due on a payment date.

**DEALER:** A dealer, as opposed to a broker, acts as a principal in all transactions, buying and selling for his own account.

**DEBENTURE:** A bond secured only by the general credit of the issuer.

**DELIVERY VERSUS PAYMENT:** There are two methods of delivery of securities: delivery versus payment and delivery versus receipt.

Delivery versus payment is delivery of securities with an exchange of money for the securities. Delivery versus receipt is delivery of securities with an exchange of a signed receipt for the securities.

**DISCOUNT:** The difference between the cost price of a security and its maturity when quoted at lower than face value. A security selling below original offering price shortly after sale also is considered to be at a discount.

**DISCOUNT SECURITIES:** Non-interest bearing money market instruments that are issued at a discount and redeemed at maturity for full face value (e.g., U.S. Treasury Bills).

**DIVERSIFICATION:** Dividing investment funds among a variety of securities offering independent returns.

**FEDERAL CREDIT AGENCIES:** Agencies of the Federal government set up to supply credit to various classes of institutions (e.g. S&L's, Small business firms, students, farmers, farm cooperatives, and exporters).

**FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC):** A Federal agency that insures bank deposits, currently up to \$100,000 per deposit.

**FEDERAL FUNDS RATE:** The rate of interest at which Fed funds are traded. This rate is currently pegged by the Federal Reserve through open-market operations.

**FEDERAL HOME LOAN BANKS (FHLB):** The institutions that regulate and lend to savings and loan associations. The Federal Home Loan Banks play a role analogous to that played by the Federal Reserve Banks vis-a-vis member commercial banks.

**FEDERAL NATIONAL MORTGAGE ASSOCIATION (FNMA):** FNMA, like GNMA was chartered under the Federal National Mortgage Association Act in 1938. FNMA is a Federal corporation working under the auspices of



the Department of Housing and Urban Development (HUD). It is the largest single provider of residential mortgage funds in the United States. Fannie Mae, as the corporation is called, is a private stockholder-owned corporation. The corporation's purchases include a variety of adjustable mortgages and second loans, in addition to fixed-rate mortgages. FNMA's securities are also highly liquid and are widely accepted. FNMA assumes and guarantees that all security holders will receive timely payment of principal and interest.

**FEDERAL OPEN MARKET COMMITTEE (FOMC):** Consists of seven members of the Federal Reserve Board and five of the twelve Federal Reserve Bank Presidents. The President of the New York Federal Reserve Bank is a permanent member, while the other presidents serve on a rotating basis. The Committee periodically meets to set Federal Reserve guidelines regarding purchases and sales of Government Securities in the open market as a means of influencing the volume of bank credit and money.

**FEDERAL RESERVE SYSTEM:** The central bank of the United States created by Congress and consisting of a seven-member Board of Governors in Washington, D.C.; 12 regional banks and about 5,700 commercial banks are member of the system.

**GOVERNMENT NATIONAL MORTGAGE ASSOCIATION (GNMA or Ginnie Mae):** Securities influencing the volume of bank credit guaranteed by GNMA and issued by mortgage bankers, commercial banks, savings and loan associations, and other institutions. Security holder is protected by full faith and credit of the U.S. Government. Ginnie Mae securities are backed by the FHA, VA or FMHM mortgages. The term "pass-throughs" is often used to describe Ginnie Maes.

**LIQUIDITY:** A liquid asset is one that can be converted easily and rapidly into cash without a substantial loss of value. In the money market, a security is said to be liquid if the spread between bid and asked prices is narrow and reasonable size can be done at those quotes.

## **LOCAL GOVERNMENT INVESTMENT**

**POOL (LGIP):** The aggregate of all funds from political subdivisions that are placed in the custody of the State Director of Finance for investment and reinvestment.

**MARKET VALUE:** The price at which a security is trading and could presumably be purchased or sold.

**MARKET REPURCHASE AGREEMENT:** A written contract covering all future transactions between the parties to repurchase reverse repurchase agreements that establish each party's rights in the transactions. A master agreement will often specify, among other things, the right of the buyer-lender to liquidate the underlying securities in the event of default by the seller-borrower.

**MATURITY:** The date upon which the principal or stated value of an investment becomes due and payable.

**OFFER:** The price asked by a seller of securities. (When you are buying securities, you ask for an offer.) See "Asked" and "Bid".

**OPEN MARKET OPERATIONS:** Purchases and sales of government and certain other securities in the open market by the New York Federal Reserve Bank as directed by the FOMC in order to influence the volume of money and credit in the economy. Purchases inject reserves into the bank system and stimulate growth of money and credit. Sales have the opposite effect. Open market operations are the Federal Reserve's most important and most flexible monetary policy tool.

**PORTFOLIO:** Collection of securities held by an investor.

**PRIMARY DEALER:** A group of government securities dealers who submit daily reports of market activity and positions and monthly financial statements to the Federal Reserve Bank of New York and are subject to its informal oversight. Primary dealers include Securities and Exchange Commission (SEC)-registered securities broker/dealers, banks and a few unregulated firms.

**PRUDENT PERSON RULE:** An investment standard. In some states, the law requires that a fiduciary, such as a trustee, may invest money



only in a list of securities selected by the custody state--the so-called "legal list". In other states, the trustee may invest in a security if it is one which would be bought by a prudent person of discretion and intelligence who is seeking a reasonable income and preservation of capital.

**RATE OF RETURN:** The yield obtainable on a security based on its purchase price or its current market price. This may be the amortized yield to maturity; on a bond, the current income return.

**REPURCHASE AGREEMENT (RP or REPO):** a holder of securities sells these securities to an investor with an agreement to purchase them at a fixed date. The security "buyer" in effect lends the "seller" money for the period of the agreement, and the terms of the agreement are structured to compensate him for this. Dealers use RP extensively to finance their positions. Exception: When the Fed is said to be doing RP, it is lending money, that is, increasing bank reserves.

**SAFEKEEPING:** A service to customers rendered by banks for a fee whereby securities and valuables of all types and descriptions are held in the bank's vaults for protection.

**SECONDARY MARKET:** A market made for the purchase and sale of outstanding issues following the initial distribution.

**SECURITIES & EXCHANGE COMMISSION:** Agency created by Congress to protect investors in securities transactions by administering securities legislation.

**SEC RULE 15C3-1:** See "Uniform Net Capital Rule".

**TREASURY BILLS:** A non-interest bearing discount security issued by the U.S. Treasury to finance the national debt. Most bills are issued to mature in three month, six months or one year.

**TREASURY BOND:** Long-term U.S. Treasury securities having initial maturities of more than 10 years.

**TREASURY NOTES:** Intermediate-term coupon bearing U.S. Treasury securities having initial

maturities of from one year to ten years.

**UNIFORM NET CAPITAL RULE:** Securities and Exchange Commission requirement that member firms as well as nonmember broker/dealers in securities maintain a maximum ratio of indebtedness to liquid capital of 15 to 1; also called *net capital rule* and *net capital ratio*. Indebtedness covers all money owed to a firm, including margin loans and commitments to purchase securities, on reason new public issues are spread among members of underwriting syndicates. Liquid capital includes cash and assets easily converted into cash.

**YIELD:** The rate of annual income return on an investment, expressed as a percentage. (a) **INCOME YIELD** is obtained by dividing the current dollar income by the current market price for the security. (b) **NET YIELD or YIELD TO MATURITY** is the current income yield minus any premium above par or plus any discount from par in purchase price, with the adjustment spread over the period from the date of purchase to the date of maturity of the bond.



Council Member Cook said that she would not oppose referencing Alice Sturgis' Standard Code of Parliamentary Procedures in the policy.

Council Member Chang recommended that the Council adopt what is before it tonight. One Alice Sturgis rules have been obtained and reviewed, it can be adopted at a later date.

City Attorney Baum recommended that the Council use the Alice Sturgis' Standard Code Parliamentary Procedure as the document to be referenced.

**ACTION**      *On a motion by Council Member Chang and seconded by Council Member Cook, the City Council, on a 4-1 vote with Mayor Pro Tem Freeman voting no, **Adopted** City Council Policy #97-01 Adopting Rules for the Conduct of City Council Meetings, adding paragraph three relating to inter council discussion as recommended by Council Member Cook and to add the use of Alice Sturgis' Standard Code of Parliamentary Procedure as a reference guide.*

#### **11.      REVISED INVESTMENT POLICY**

Finance Director Eckert presented the staff report.

**ACTION:**      *On a motion by Council Member Foster and seconded by Council Member Chang, the City Council unanimously (5-0) **Adopted** the Revised City Investment Policy.*

#### **ROLL CALL VOTE**

**ACTION:**      *On a motion by Mayor Pro Tem Freeman and seconded by Council Member Foster, the City Council approved Consent Calendar Items 12 and 13 as follows:*

#### **12.      SECOND READING AND ADOPTION OF ORDINANCE NOS. 1332 AND 1333, NEW SERIES**

**ORDINANCE NO. 1332, N.S. -- Adoption of Ordinance No. 1332, New Series** - *An Ordinance of the City Council of the City of Morgan Hill Approving a Zoning Amendment from R-2 (3,500) to R-2 (3,500)/RPD, Residential Planned Development Establishing a Precise Development Plan for a 48-unit Residential Planned Development on an 8.34 Acre Portion of a 10-Acre Parcel on the South Side of Barrett Avenue, West of Medical Center Drive. (APN 817-09-008) as amended, by the following vote: AYES: Kennedy, Freeman, Chang, Cook, Foster; NOES: None; ABSTAIN: None; ABSENT: None.*

**ORDINANCE NO. 1333, N.S. -- Adoption of Ordinance No. 1333, New Series** - *An Ordinance of the City of Morgan Hill Approving a Development Agreement for a 48-units Single Family Attached residential Development Awarded an Allocation through the Residential Development Control System for Fiscal Year 1997-98, and Fiscal Year 1998-99 by the following vote: AYES: Kennedy, Freeman, Chang, Cook, Foster; NOES: None; ABSTAIN: None; ABSENT: None.*